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The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code section 17A.6. The Supplement contains replacement chapters to be inserted in the loose-leaf Iowa Administrative Code (IAC) according to instructions included with each Supplement. The replacement chapters incorporate rule changes which have been adopted by the agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17 and 17A.4 to 17A.6. To determine the specific changes in the rules, refer to the Iowa Administrative Bulletin bearing the same publication date.

In addition to the changes adopted by agencies, the replacement chapters may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(6); an effective date delay imposed by the ARRC pursuant to section 17A.4(7) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(8); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

The Supplement may also contain replacement pages for the IAC Index or the Uniform Rules on Agency Procedure.

INSTRUCTIONS

FOR UPDATING THE

IOWA ADMINISTRATIVE CODE

Agency names and numbers in bold below correspond to the divider tabs in the IAC binders. New and replacement chapters included in this Supplement are listed below. Carefully remove and insert chapters accordingly.

Editor's telephone (515)281-3355 or (515)242-6873

Insurance Division[191]

Replace Analysis

Replace Chapter 76

Real Estate Commission[193E]

Replace Chapter 5

Iowa Finance Authority[265]

Replace Chapters 41 and 42

Petroleum Underground Storage Tank Fund Board, Iowa Comprehensive[591]

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INSURANCE DIVISION[191]

[Prior to 10/22/86, see Insurance Department[510], renamed Insurance Division[191] under the “umbrella” of Department of Commerce by the 1986 Iowa Acts, Senate File 2175]

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CHAPTER 76 EXTERNAL REVIEW

191—76.1(84GA, HF597) Purpose. This chapter is intended to implement 2011 Iowa Acts, House File 597, to provide a uniform process for covered persons of health carriers providing health insurance coverage or the covered persons' authorized representatives to request and receive an external review of adverse determinations and final adverse determinations as defined in 2011 Iowa Acts, House File 597, sections 2(1) and 2(18), and as referenced in 2011 Iowa Acts, House File 597, section 9(1). Health carriers defined in 2011 Iowa Acts, House File 597, section 2(23), are subject to these rules.

[ARC 9637B, IAB 7/27/11, effective 7/8/11]

191—76.2(84GA, HF597) Applicable law. The rules contained in this chapter shall apply to any health benefit plan as defined in 2011 Iowa Acts, House File 597, section 2(19), offered or issued by a health carrier as defined in 2011 Iowa Acts, House File 597, section 2(23), subject to the limitations set forth in 2011 Iowa Acts, House File 597, section 3(2), if the covered person is an Iowa resident or if the plan was issued in Iowa, and if the external review request is filed with the commissioner on or after July 1, 2011. For purposes of applying the exemption in 2011 Iowa Acts, House File 597, section 3(2) "b," a "Medicare supplement policy of insurance" shall mean the same as a "Medicare supplement policy" as defined in rule 191—37.3(514D). For purposes of this chapter, the definitions used in 2011 Iowa Acts, House File 597, shall be used in this chapter.

[ARC 9637B, IAB 7/27/11, effective 7/8/11]

191—76.3(84GA, HF597) External review request. Except for requests for expedited review, the covered person or the covered person's authorized representative shall send a request for external review (completed Appendix B) in writing, by mail, by fax or by electronic transmission, including a copy of the health carrier's written notice containing the final adverse determination, to the commissioner within the time periods specified in 2011 Iowa Acts, House File 597, section 7(1) or 9(1), as applicable. The request form and notice shall be sent to the commissioner at Insurance Division, 330 Maple Street, Des Moines, Iowa 50319; fax (515)281-3059; or E-mail iid.marketregulation@iid.iowa.gov.

[ARC 9637B, IAB 7/27/11, effective 7/8/11]

191—76.4(84GA, HF597) Decision notification. The independent review organization shall immediately provide a copy of a draft of the decision notification to the commissioner for review. The commissioner shall review the draft of the decision notification. The commissioner shall make any suggestions for changes. The independent review organization shall make such required changes. Once the commissioner determines that the decision notification meets the requirements of 2011 Iowa Acts, House File 597, section 7(12), 8(6), or 9(18), as applicable, the independent review organization shall immediately send the decision notification to the commissioner, the health carrier, and the covered person or covered person's authorized representative. The decision notification approved by the commissioner shall be delivered by telephone, fax or electronic transmission, and a hard copy of the decision notification also shall be delivered by regular mail.

[ARC 9637B, IAB 7/27/11, effective 7/8/11]

191—76.5(84GA, HF597) Disclosure requirements. The description of external review procedures required by 2011 Iowa Acts, House File 597, section 16, shall be in the form of Appendix A, or substantially similar language approved by the commissioner.

[ARC 9637B, IAB 7/27/11, effective 7/8/11]

191—76.6(84GA, HF597) Health carrier information.

76.6(1) Each health carrier shall provide to the commissioner the name, title, telephone number, fax number and E-mail address of the individual who shall be the health carrier's contact person for external review procedures. Any changes in personnel or communication information shall be immediately sent to the commissioner.

76.6(2) Each health carrier shall make available to the commissioner upon request within five business days a detailed description of the process the health carrier has in place to ensure compliance with the requirements found in this chapter and in 2011 Iowa Acts, House File 597. The description shall include:

- a.* An explanation of how the carrier determines when a person has qualified for external review and should receive a notice from the carrier or organized delivery system, and
- b.* A copy of the notice sent to persons who fall within the scope of the law.

76.6(3) Each health carrier shall provide to the commissioner, upon request, information set forth in 2011 Iowa Acts, House File 597, section 14(2) “b,” in a format substantially similar to Appendix D, or as approved by the commissioner.

[ARC 9637B, IAB 7/27/11, effective 7/8/11]

191—76.7(84GA,HF597) Certification of independent review organization.

76.7(1) In addition to the minimum qualifications set forth in 2011 Iowa Acts, House File 597, section 12, the following minimum standards are required for certification as an independent review organization:

- a.* The applicant shall provide a description of the procedures employed to comply with 2011 Iowa Acts, House File 597, section 12(1) “a.”
- b.* The applicant shall provide the number of reviewers retained by the independent review organization and a description of the areas of expertise available from such reviewers and the types of cases such reviewers are qualified to review.
- c.* The applicant shall provide the names and résumés of all directors, officers, and executives of the independent review organization.
- d.* The applicant shall provide a description of the fees to be charged by the independent review organization for external reviews. Fees shall be reasonable in relation to those of other independent review organizations providing external review services in Iowa. A health carrier or the commissioner may object to a fee as unreasonable, and the commissioner or the commissioner’s designee, at the discretion of the commissioner, may conduct a review.
- e.* The applicant shall provide the name of the medical director or health professional director responsible for the supervision and oversight of the independent review procedure.

76.7(2) The independent review organization shall develop written policies and procedures to ensure adherence to the requirements of this chapter and 2011 Iowa Acts, House File 597, by any contractor, subcontractor, subvendor, agent or employee affiliated with the certified independent review organization.

76.7(3) In addition to the toll-free telephone service required by 2011 Iowa Acts, House File 597, section 12(1) “b,” the independent review organization shall establish a facsimile and electronic mail service to receive information relating to external reviews pursuant to this chapter and 2011 Iowa Acts, House File 597.

76.7(4) The independent review organization shall provide the commissioner within ten business days of request such data, information, and reports as the commissioner determines necessary to evaluate the external review process established under 2011 Iowa Acts, House File 597, or a report in the format of Appendix C to comply with 2011 Iowa Acts, House File 597, section 14(1).

76.7(5) Applications shall be submitted to the Commissioner of Insurance, 330 Maple Street, Des Moines, Iowa 50319; or as designated by the commissioner. Applications must be submitted in full to be considered. All applicants will be notified of the certification decision. A list of certified independent review organizations shall be maintained by the commissioner and shall be available through the Web site of the Iowa insurance division: www.iid.state.ia.us.

[ARC 9637B, IAB 7/27/11, effective 7/8/11]

These rules are intended to implement 2011 Iowa Acts, House File 597.

Appendix A

NOTICE OF APPEAL RIGHTS

You have a right to appeal any decision we make that denies payment on your claim or your request for coverage of a health care service or treatment.

You may request more explanation when your claim or request for coverage of a health care service or treatment is denied or the health care service or treatment you received was not fully covered. Contact us when you:

- Do not understand the reason for denial;
- Do not understand why the health care service or treatment was not fully covered;
- Do not understand why a request for coverage of a health care service or treatment was denied;
- Cannot find the applicable provision in your Benefit Plan Document;
- Want a copy (free of charge) of the guideline, criteria or clinical rationale that we used to make our decision; or
- Disagree with the denial or the amount not covered and you want to appeal.

If your claim was denied due to missing or incomplete information, you or your health care provider may resubmit the claim to us with the necessary information to complete the claim.

Internal Appeal: All appeals to us for claim denials (or any decision that does not cover expenses you believe should have been covered) must be sent to [insert address of where appeals should be sent to the health carrier] within **180 days** of the date you receive your denial. We will provide a full and fair review of your claim by individuals associated with us, but who were not involved in making the initial denial of your claim. You may provide us with additional information that relates to your claim and you may request copies of information that we have that pertains to your claim. We will notify you of our decision in writing within **30 days** of receiving your appeal. If you do not receive our decision within **30 days** of receiving your appeal, you may be entitled to file a request for external review.

External Review: We have denied your request for the provision of or payment for a health care service or course of treatment. If you have exhausted all of your internal appeals with us, you may have a right to have our decision reviewed by independent health care professionals who have no association with us. This process is called “external review.”

You may obtain an external review if:

- Our decision involved the admission, availability of care, continued stay, or other health care service that is a covered benefit; and
- We denied, reduced or terminated the payment for the service because we determined it did not meet our requirements for medical necessity, health care setting, level of care or effectiveness of the health care service or treatment you requested.

You can obtain a copy of the External Review Request Form from the Iowa Insurance Division or from the Division's website (330 Maple, Des Moines, Iowa 50319; telephone 877-955-1212 or 515-281-6348; facsimile 515-281-3059; www.iid.state.ia.us).

Within **four months** after receipt of our notice containing the final adverse determination and this Notice of Appeal Rights, you should submit a request for external review to the Iowa Insurance Division (330 Maple, Des Moines, Iowa 50319; telephone 877-955-1212 or 515-281-6348; facsimile 515-281-3059; E-mail iid.marketregulation@iid.iowa.gov).

For standard external review, a decision will be made within **45 days** after the independent review organization receives your request.

If you have a medical condition that would seriously jeopardize your life or health or would jeopardize your ability to regain maximum function if treatment is delayed, you may be entitled to request an **expedited external review** of our denial.

If our denial to provide or pay for health care service or course of treatment is based on a determination that the service or treatment is experimental or investigational, you also may be entitled to file a request for external review of our denial. For details, please review your Benefit Plan Document, contact us, or contact the Iowa Insurance Division.

Appendix B

EXTERNAL REVIEW REQUEST FORM

This **EXTERNAL REVIEW REQUEST FORM** must be filed with the Iowa Insurance Division within **FOUR MONTHS** after your health carrier denied, reduced or terminated the requested health care service or treatment or payment for the service or treatment.

APPLICANT NAME:

The applicant is a:

☐ Covered Person/Patient ☐ Provider ☐ Authorized Representative

COVERED PERSON/PATIENT INFORMATION

Covered Person Name:

Patient Name:

Address:

Covered Person Telephone Number:

Daytime:

Evening:

E-mail Address:

Fax Number:

INSURANCE INFORMATION

Insurer/HMO Name:

Covered Person Insurance ID and/or Policy Number:

Insurance Claim/Reference Number:

Insurer/HMO Mailing Address:

Insurer/HMO Telephone Number:

E-mail Address:

Fax Number:

EMPLOYER INFORMATION

Employer's Name:

Is the health coverage you have through your employer a self-funded plan? (Y/N)_____.

Some self-funded plans may voluntarily provide external review, but may have different procedures. You should check with your employer.

HEALTH CARE PROVIDER INFORMATION

Treating Physician/Health Care Provider:

Address:

Contact Person:

Telephone Number:

E-mail Address:

Fax Number:

Medical Record Number:

REASON FOR HEALTH CARRIER DENIAL

(Please check one)

- ☐ The health care service or treatment is not medically necessary.
- ☐ The health care service or treatment is experimental or investigational.
- ☐ Other: _____.

SUMMARY OF EXTERNAL REVIEW REQUEST

Enter a brief description of the claim, the request for health care service or treatment that was denied, and/or attach a copy of the denial from your health carrier.

HEALTH CARE SERVICE OR TREATMENT DECISION IN DISPUTE

Describe in your own words the health care service or treatment in dispute and why you are appealing this denial by attaching additional pages. Describe the disagreement with your health carrier. Indicate clearly the services being denied and the specific dates being denied. Explain why you disagree. Attach additional pages if necessary and include available pertinent medical records, any information you received from your health carrier concerning the denial, any pertinent peer literature or clinical studies, and any additional information from your physician/health care provider that you want the independent review organization reviewer to consider.

EXPEDITED REVIEW

If you need a fast decision, you may request that your external review be handled on an expedited basis. To complete this request, your treating health care provider must fill out the attached form stating that a delay would seriously jeopardize the life or health of the patient or would jeopardize the patient's ability to regain maximum function.

Is this a request for an expedited review? Yes _____ No _____

SIGNATURE AND RELEASE OF MEDICAL RECORDS

To appeal your health carrier's denial, you must sign and date this external review request form and consent to the release of medical records.

I, _____, hereby request an external review. I attest that the information provided in this application is true and accurate to the best of my knowledge. I authorize my insurance company and my health care providers to release all relevant medical or treatment records to the independent review organization and the Iowa Insurance Division. I understand that the independent review organization and the Iowa Insurance Division will use this information to make a determination on my external review and that the information will be kept confidential and will not be released to anyone else. This release is valid for one year.

Signature of Covered Person/Patient (or legal representative*)

Date:

*(Parent, Guardian, Conservator or Other—Please Specify)

APPOINTMENT OF AUTHORIZED REPRESENTATIVE

(Fill out this section only if someone else will be representing you in this request for external review.)

You can represent yourself, or you may ask another person, including your treating health care provider, to act as your authorized representative. You may revoke this authorization at any time.

I hereby authorize _____ to pursue my external review request on my behalf.

Signature of Covered Person/Patient (or legal representative*)

Date:

*(Parent, Guardian, Conservator or Other—Please Specify)

Address of Authorized Representative:

Authorized Representative's Telephone Number:

Daytime:

Evening:

E-mail Address:

Fax Number:

WHAT TO SEND AND WHERE TO SEND IT

YOU MUST SUBMIT BOTH OF THE ITEMS BELOW*:

1. ☐ **YES**, I have included this completed request form, signed and dated.
2. ☐ **YES****, I have enclosed the letter from my health carrier or utilization review company that states:
 - (a) That their decision is final and that I have exhausted all internal review procedures; or
 - (b) That they have waived the requirement to exhaust all of the health carrier's internal review procedures.

*Contact the Consumer Assistance Program of the Iowa Insurance Division by calling 515-281-4458 or 877-955-1212, or by E-mail through the website at <http://insuranceca.iowa.gov>, if you need help in completing this application or if you do not have one or more of the above items and would like information on alternative ways to complete your request for external review.

**You may make a request for external review without exhausting all internal review procedures under certain circumstances. You should contact the Iowa Insurance Division (330 Maple, Des Moines, Iowa 50319; telephone 877-955-1212 or 515-281-6348; facsimile 515-281-3059; E-mail iid.marketregulation@iid.iowa.gov).

If you are requesting a standard external review, send all paperwork to the Iowa Insurance Division (330 Maple, Des Moines, Iowa 50319; facsimile 515-281-3059; E-mail iid.marketregulation@iid.iowa.gov).

If you are requesting an expedited external review, call the Iowa Insurance Division (telephone 877-955-1212 or 515-281-6348) before sending your paperwork, and you will receive instructions on the quickest way to submit the application and supporting information.

**CERTIFICATION OF TREATING HEALTH CARE PROVIDER
FOR EXPEDITED CONSIDERATION OF
A PATIENT'S EXTERNAL REVIEW REQUEST
(To Be Completed by Treating Health Care Provider)**

NOTE TO THE TREATING HEALTH CARE PROVIDER

Patients can request an external review when a health carrier has denied a health care service or course of treatment on the basis of a utilization review determination that the requested health care service or course of treatment does not meet the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care or effectiveness of the health care service or treatment you requested. The Iowa Insurance Division oversees external reviews. The standard external review process can take up to 45 days from the date the patient's request for external review is received by the Division. Expedited external review is available only if the patient's treating health care provider certifies that adherence to the time frame for the standard external review would seriously jeopardize the life or health of the patient or would jeopardize the patient's ability to regain maximum function. An expedited external review must be completed at most within 72 hours. This form is for the purpose of providing the certification necessary to trigger expedited review.

GENERAL INFORMATION

Name of Treating Health Care Provider:

Mailing Address:

Telephone Number:

E-mail Address:

Fax Number:

Licensure and Area of Clinical Specialty:

Name of Patient:

Patient's Insurer Member ID Number:

CERTIFICATION

I hereby certify that: I am a treating health care provider for _____ (hereafter referred to as "the patient"); that adherence to the time frame for conducting a standard external review of the patient's appeal would, in my professional judgment, seriously jeopardize the life or health of the patient or would jeopardize the patient's ability to regain maximum function; and that, for this reason, the patient's appeal of the denial by the patient's health carrier of the requested health care service or course of treatment should be processed on an expedited basis.

Treating Health Care Provider's Signature _____

Date: _____

Treating Health Care Provider's Name (Please Print)

**PHYSICIAN CERTIFICATION: EXPERIMENTAL/INVESTIGATIONAL DENIALS
(To Be Completed by Treating Physician)**

I hereby certify that I am the treating physician for _____ (covered person's/patient's name) and that I have requested the authorization for a drug, device, procedure or therapy denied for coverage due to the insurance carrier's determination that the proposed therapy is experimental and/or investigational. I understand that in order for the covered person/patient to obtain the right to an external review of this denial, as treating physician I must certify that the covered person's medical condition meets certain requirements:

In my medical opinion as the insured's treating physician, I hereby certify to the following:

(Please check all that apply)

(NOTE: Requirements #1 - #3 below must all apply for the covered person/patient to qualify for an external review).

☐ 1) The covered person/patient has a terminal medical condition, life-threatening condition, or a seriously debilitating condition.

☐ 2) The covered person/patient has a condition that qualifies under one or more of the following (please indicate which descriptions apply):

☐ Standard health care services or treatments have not been effective in improving the covered person's/patient's condition;

☐ Standard health care services or treatments are not medically appropriate for the covered person/patient; or

☐ There is no available standard health care service or treatment covered by the health carrier that is more beneficial than the requested or recommended health care service or treatment.

☐ 3) The health care service or treatment I have recommended and which has been denied, in my medical opinion, is likely to be more beneficial to the covered person than any available standard health care services or treatments.

☐ 4) The health care service or treatment recommended would be significantly less effective if not promptly initiated.

Explain:

☐ 5) It is my medical opinion based on scientifically valid studies using accepted protocols that the health care service or treatment requested by the covered person/patient and which has been denied is likely to be more beneficial to the covered person/patient than any available standard health care services or treatments.

Explain:

Please provide a description of the recommended or requested health care service or treatment that is the subject of the denial. (Attach additional sheets as necessary)

Physician's Signature _____ Date: _____

Physician's Name (Please Print) _____

Appendix C

Iowa Insurance Division
Independent Review Organization
External Review Annual Report Form

External Review Annual Summary for 20__

Each independent review organization (IRO) shall submit upon request of the Commissioner an annual report with information for each health carrier in the aggregate for Iowa on external reviews performed and by type of health benefit plan.

1. IRO name:

Filing date:
2. IRO address:
3. IRO website:
4. Name, E-mail address, telephone number and fax number of the person completing this form:
5. Name, title, E-mail address, telephone number and fax number of the person responsible for regulatory compliance and quality of external reviews:

6. Total number of requests for external review received from the Iowa Insurance Division during the reporting period:
7. Number of standard external reviews:
8. Average number of days the IRO required to reach a final decision in standard reviews:
9. Number of expedited reviews completed to a final decision:
10. Average number of days the IRO required to reach a final decision in expedited reviews:
11. Number of medical necessity reviews decided in favor of the health carrier:
Briefly list procedures denied:
12. Number of medical necessity reviews decided in favor of the covered person/patient:
Briefly list procedures approved:
13. Number of experimental/investigational reviews decided in favor of the health carrier:
Briefly list procedures denied:
14. Number of experimental/investigational reviews decided in favor of the covered person/patient:
Briefly list procedures approved:
15. Number of reviews terminated as the result of a reconsideration by the health carrier:
16. Number of reviews terminated by the covered person/patient prior to issuance by the IRO of external review decision:
17. Number of reviews declined due to possible conflict with:

Health carrier:

Covered person/patient:

Health care provider:

Describe possible conflicts of interest:
18. Number of reviews declined due to other reasons not reflected in #17 above:

Appendix D

Iowa Insurance Division**Health Carrier External Review Annual Report Form****(attach information to this form if necessary)****External Review Annual Summary for 20__**

Each health carrier shall submit upon request of the Commissioner an annual report with information in the aggregate for Iowa and by type of health benefit plan.

1. Health carrier name:
2. Health carrier address:
3. Health carrier website:
4. Name, E-mail address, telephone number and fax number of the person completing this form:
5. Name, title, E-mail address, telephone number and fax number of the person responsible for regulatory compliance:
6. Total number of external review requests of the health carrier's adverse determinations and final adverse determinations received from the Iowa Insurance Division during the reporting period:
7. From the total number of external review requests provided in Question 6, the number of requests determined eligible for a full external review:

8. Total number of external review requests resolved and, of those resolved, the number resolved upholding the adverse determination or final adverse determination of the health carrier and the number resolved reversing the adverse determination or final adverse determination of the health carrier:
9. Total number of external review requests that were terminated as the result of a reconsideration by the health carrier of its adverse determination or final adverse determination after the receipt of additional information from the covered person or the covered person's authorized representative:

[Filed 10/29/99, Notice 9/22/99—published 11/17/99, effective 12/22/99]

[Filed 4/10/00, Notice 1/12/00—published 5/3/00, effective 6/7/00]

[Filed 11/21/01, Notice 10/17/01—published 12/12/01, effective 1/16/02]

[Filed Emergency ARC 9637B, IAB 7/27/11, effective 7/8/11]

CHAPTER 5
LICENSEES OF OTHER JURISDICTIONS AND RECIPROCITY
[Prior to 9/4/02, see 193E—2.3(543B)]

193E—5.1(543B) Licensees of other jurisdictions. As provided in Iowa Code section 543B.21, a nonresident of this state may be licensed as a real estate broker or a real estate salesperson upon complying with all requirements of Iowa law and with all the provisions and conditions of Iowa Code chapter 543B and commission rules relative to resident brokers or salespersons.

5.1(1) A person licensed as a salesperson in another state or jurisdiction making application in Iowa by reciprocity or as provided in rule 193E—5.3(543B) shall qualify only for a salesperson license in Iowa.

5.1(2) A person licensed as a broker or broker associate in another state or jurisdiction making application in Iowa by reciprocity or as provided in rule 193E—5.3(543B) shall qualify only for the same type of broker or broker associate license in Iowa.

5.1(3) A person shall not perform any activities in Iowa as provided by Iowa Code chapter 543B without qualifying for and being issued a real estate license.

193E—5.2(543B) Nonresident application. Each applicant under rule 193E—5.3(543B) or under a reciprocal licensing agreement or memorandum must apply on forms provided by the commission as required by Iowa Code section 543B.16. The application shall include but not be limited to a certification of license from the state of original licensure containing all information required by Iowa Code section 543B.21 and an affidavit certifying that the applicant has reviewed and is familiar with and will be bound by the Iowa real estate license law and the rules of the commission.

193E—5.3(543B) License by Iowa-specific examination. A nonresident applicant licensed as a real estate salesperson or broker in a state or jurisdiction which does not have a reciprocal licensing agreement or memorandum with Iowa, or an applicant who does not qualify for reciprocal licensing, may be issued a comparable Iowa license by passing the Iowa portion of the examination under the following circumstances:

5.3(1) Broker. The person has been actively licensed as a broker or broker associate and the license has not been inactive or expired for more than six months immediately preceding the date of passage of the examination.

5.3(2) Salesperson. The person has been actively licensed as a salesperson and the license has not been inactive or expired for more than six months immediately preceding the date of passage of the examination.

5.3(3) The applicant must submit a written request for authorization to sit for the appropriate examination.

5.3(4) The applicant must submit certification of the applicant's current qualifying license from the licensing authority that issued the license.

193E—5.4(543B) Licensure by reciprocity. The commission may, as provided in Iowa Code section 543B.21, enter into specific written reciprocal licensing agreements or memorandums with other individual states or jurisdictions having similar licensing requirements and grant an Iowa license to licensees from those states or jurisdictions on the same basis as Iowa licensees are granted licenses by those states or jurisdictions.

5.4(1) The applicant shall not be a resident of Iowa.

5.4(2) A license issued pursuant to this rule must be based upon a nonresident salesperson or broker license issued by examination.

5.4(3) A license issued pursuant to this rule must be assigned to the same broker or firm as the nonresident license upon which it is based.

5.4(4) If an applicant establishes residency in Iowa, that person does not qualify for licensure by reciprocal licensing agreement or memorandum.

5.4(5) An Iowa license issued by reciprocity is based upon the nonresident license issued by examination in that other state or jurisdiction and must be issued to the same broker and location as the nonresident license. The nonresident broker and firm, if applicable, must also be licensed in Iowa.

5.4(6) A reciprocity agreement or memorandum of understanding is only a method to apply for licensure and does not grant any exception to mandatory license laws of Iowa or the other state or jurisdiction.

5.4(7) An Iowa licensee wishing to obtain a license in any other state or jurisdiction should contact that state's or jurisdiction's licensing board for information and applications. Contact information and a list of states and jurisdictions that have entered into reciprocal licensing agreements or memorandums with Iowa, including addresses and telephone numbers, are available on the commission's Web site located at <http://www.state.ia.us/irec>.

193E—5.5(543B) Renewal of a license issued by reciprocity. All renewal requirements for a real estate broker or salesperson license issued by examination shall apply to a license issued by reciprocity.

Continuing education reciprocity must be specifically provided for in the reciprocal license agreement or memorandum, or in a separate reciprocal continuing education agreement or memorandum.

193E—5.6(543B) Reinstatement of a license issued by reciprocity. All reinstatement requirements for a real estate broker or salesperson license issued by examination shall apply to a license issued by reciprocity, except that the reinstatement fee is \$25 with an original reciprocal license application.

5.6(1) Starting over. A broker or salesperson who fails to file a complete application to reinstate an expired license by midnight December 31 of the third year following expiration shall be treated as if the former broker or salesperson had never been licensed in Iowa.

5.6(2) A broker or salesperson must qualify for reciprocity in order to reinstate an expired reciprocal broker or salesperson license.

5.6(3) If the broker or salesperson has moved into Iowa and no longer qualifies for reciprocity, the expired license must be reinstated in the same manner as a license issued by examination as provided in rule 193E—3.6(272C,543B) for brokers and rule 193E—4.6(272C,543B) for salespersons.

193E—5.7(543B) Nonresident real estate offices and licenses required. All nonresident applicants for licensure in Iowa shall qualify for and obtain a license pursuant to Iowa Code section 543B.2(2) and rule 193E—7.1(543B).

5.7(1) If the applicant is a broker associate or salesperson of a nonresident broker, the nonresident employing broker must have an Iowa broker license.

5.7(2) If the applicant is employed by or otherwise associated with a nonresident real estate firm as defined in rule 193E—2.1(543B), that firm must apply and qualify for an Iowa license.

a. No firm as defined in rule 193E—2.1(543B) shall be granted an Iowa license unless at least one member or officer of the firm applies for and is granted an Iowa broker license.

b. Every member or officer of the firm and every employee or associated real estate licensee who acts as a real estate broker, broker associate, or salesperson in Iowa must apply for and be granted an Iowa license.

5.7(3) As provided by Iowa Code section 543B.22, a nonresident broker or firm is not required to maintain a definite place of business in Iowa if that broker or firm maintains an active place of business within the resident state or jurisdiction.

193E—5.8(543B) License as prerequisite. A person is prohibited from bringing action in Iowa courts for the collection of compensation for real estate services performed in Iowa without providing proof of Iowa real estate licensure, as required by Iowa Code section 543B.30.

193E—5.9(543B) Actions against nonresidents. The application for a nonresident license must be accompanied by an executed irrevocable written consent to suits and actions at law or in equity as provided in Iowa Code section 543B.23.

193E—5.10(543B) Nonresident continuing education. Nonresident licensees shall fully comply with all continuing education requirements unless a separate education agreement is in place between Iowa and the nonresident state or jurisdiction.

193E—5.11(543B) License discipline reporting required. If a nonresident Iowa licensee has a real estate license disciplined, suspended or revoked by any other state or jurisdiction, that disciplinary action will be considered prima facie evidence of violation of Iowa Code section 543B.29 or 543B.34 or both, and a hearing may be held to determine whether similar disciplinary action should be taken against the Iowa licensee. Failure to notify the commission within 15 days of an adverse action taken by another state or jurisdiction shall be cause for disciplinary action.

[ARC 9619B, IAB 7/27/11, effective 8/31/11]

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.

[Filed 8/9/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]

[Filed ARC 9619B (Notice ARC 9486B, IAB 5/4/11), IAB 7/27/11, effective 8/31/11]

CHAPTER 41
SHELTER ASSISTANCE FUND
[Prior to 10/20/10, see 261—Ch 29]

265—41.1(16) Purpose. The shelter assistance fund is created for the purpose of providing financial assistance for the rehabilitation, expansion, or costs of operations of group home shelters for the homeless and domestic violence shelters.

[ARC 9162B, IAB 10/20/10, effective 10/1/10; ARC 9281B, IAB 12/15/10, effective 1/19/11]

265—41.2(16) Definitions. When used in this chapter, unless the context otherwise requires:

“Applicant” means an eligible provider of eligible homeless services which is applying for SAF program funds.

“Domestic violence shelter” means a homeless shelter primarily or exclusively serving clients who are homeless due to domestic violence.

“Emergency shelter” means a homeless shelter with overnight sleeping accommodations, the primary purpose of which is to provide temporary shelter for homeless persons.

“ESG program” or *“ESGP”* means the Emergency Shelter Grants Program created pursuant to Title 42 of the U.S. Code (42 U.S.C. Section 11375) as well as parts of Title 24 of the Code of Federal Regulations (24 CFR Part 576).

“HMIS” means the Homeless Management Information System, which is a client-level data collection and management system implemented at the community level that allows for better coordination among agencies providing services to clients.

“Homeless” or *“homeless individual”* shall have the meaning set forth in 42 U.S.C. Section 11302.

“Homeless prevention” means activities or programs designed to prevent the incidence of homelessness.

“Homeless shelter” means a facility providing temporary housing and services for homeless persons.

“HUD” means the U.S. Department of Housing and Urban Development.

“HUD ESG Desk Guide” means the document provided by HUD which supplements the federal regulations pertaining to the Emergency Shelter Grants Program.

“IFA” means the Iowa finance authority.

“Major rehabilitation” means rehabilitation that involves costs in excess of 75 percent of the value of the building before rehabilitation.

“Obligated” means that IFA has placed orders, awarded contracts, received services, or entered into similar transactions that require payment from the shelter assistance fund. Funds awarded by IFA by a written agreement or letter of award requiring payment from the shelter assistance fund are obligated.

“Operations” means administration, maintenance, repair, security, provision of essential services, and provision of homelessness prevention activities.

“Private, nonprofit organization” means a secular or religious organization described in Section 501(c) of the Internal Revenue Code which:

1. Is exempt from taxation under Subtitle A of the Internal Revenue Code,
2. Has an accounting system and a voluntary board,
3. Practices nondiscrimination in the provision of services to clients, and
4. Has registered with the state of Iowa as a nonprofit corporation.

“Recipient” means any private, nonprofit organization or city or county government to which IFA distributes shelter assistance fund program funds.

“Rehabilitation” means repair directed toward an accumulation of deferred maintenance; replacement of principal fixtures and components of existing buildings; installation of security devices; and improvement through alterations or additions to, or enhancements of, existing buildings, including improvements to increase the efficient use of energy in buildings. Costs of rehabilitation may include labor, materials, tools, and other costs of improving buildings.

“Renovation” means rehabilitation that involves costs of 75 percent or less of the value of the building before rehabilitation.

“SAF” means shelter assistance fund created in 2010 Iowa Acts, Senate File 2088, section 265.

“Subrecipient” means any private, nonprofit organization or city or county government to which a recipient distributes shelter assistance fund program funds.

“Transitional housing” means a project that is designed to provide housing and appropriate support services to homeless persons to facilitate movement to independent living within a specified time frame.

“Value of the building” means the monetary value assigned to a building by an independent real estate appraiser or as otherwise reasonably established by the recipient or subrecipient.

[ARC 9162B, IAB 10/20/10, effective 10/1/10; ARC 9281B, IAB 12/15/10, effective 1/19/11]

265—41.3(16) Eligible applicants. City governments, county governments, and private, nonprofit organizations are eligible applicants under the SAF program. City or county governments may apply on behalf of a nonprofit service provider within their jurisdictions when the nonprofit service provider serves homeless and near-homeless clients by providing overnight shelter, meals, clothing, transportation, counseling, child care, legal services, medical services, transitional housing services, and other related services for homeless individuals and families.

[ARC 9162B, IAB 10/20/10, effective 10/1/10; ARC 9281B, IAB 12/15/10, effective 1/19/11]

265—41.4(16) Eligible activities. Activities assisted by the SAF may include the following:

1. Rehabilitation, renovation, or expansion of buildings for use in the provision of services for the homeless.

2. Provision of normal operating expenses for programs providing services to homeless individuals or families, including staff salaries, maintenance, insurance, utilities, furnishings, provision of essential services, provision of homeless prevention activities, administrative activities, and all other documented normal operating expenses.

[ARC 9162B, IAB 10/20/10, effective 10/1/10; ARC 9281B, IAB 12/15/10, effective 1/19/11]

265—41.5(16) Ineligible activities. As a general rule, any activity that is not authorized under the provisions of P.L. 100-628 is ineligible to be carried out with SAF program funds. The following are items specifically listed as ineligible in 24 CFR Part 576.

1. Acquisition or new construction of an emergency shelter for the homeless;
2. Rehabilitation administration, such as preparation of work specifications, loan processing, or inspections;

3. Renovation, rehabilitation, or conversion of buildings owned by primarily religious organizations or entities unless the activity complies with all requirements as outlined in 24 CFR Part 576.23(a) and (b).

[ARC 9162B, IAB 10/20/10, effective 10/1/10; ARC 9281B, IAB 12/15/10, effective 1/19/11]

265—41.6(16) Application procedures. IFA will issue requests for proposals from eligible applicants as often as the state expects funding from HUD for the ESG program. Requests for proposals will combine the ESG program with the SAF program. The proposals must be submitted on the forms or on-line system prescribed by IFA and must, at a minimum, include the amount of funds requested, a description of the need for the funds, documentation of other available funding sources, the source of required local match for the ESG program, and the estimated number of persons to be served by the applicant. Maximum and minimum grant awards will be established by IFA for each competition.

[ARC 9162B, IAB 10/20/10, effective 10/1/10; ARC 9281B, IAB 12/15/10, effective 1/19/11; ARC 9642B, IAB 7/27/11, effective 7/8/11]

265—41.7(16) Application review process. The application review process will be a joint process that combines the SAF program with the ESG program. The following procedures will be used in the review of applications for most purposes. IFA reserves the right to select an alternate application review process for SAF program funds only.

41.7(1) Review; threshold criteria; eligible activities.

- a. *Review of applications.* Applications will be reviewed by a panel appointed by IFA. Applications will be reviewed based on priorities established during each competition round, in accordance with the state of Iowa consolidated plan for housing and community development. Applicant

experience and capacity, as well as past performance, are top priorities. Other review criteria include, but are not limited to, program design, community need, program accessibility, program partnerships, the number of persons or households served, and how well the program leverages other resources.

b. Threshold criteria. IFA will identify threshold criteria that all programs must meet in order to be eligible.

c. Activities eligible during funding cycle. Each competition round will specify which of the total eligible program activities will be supported during that competition round.

41.7(2) If an application contains an activity determined to be ineligible, at IFA's discretion, the ineligible activity may be deleted from the application or referred to another funding source or the application may be disqualified.

41.7(3) IFA reserves the right to negotiate directly with the applicant to determine the priority of funding requested within the application.

41.7(4) IFA staff may review applications with other state agencies or other groups with expertise in the area of serving homeless persons before making final funding recommendations. Consultation with other agencies is intended to avoid duplication and promote maximum utilization of funding sources.

41.7(5) Based on the review process, IFA may revise the overall funding request by activity or funding level and recommend a final funding figure to the IFA board of directors for approval.

41.7(6) IFA reserves the right to negotiate all aspects of a funding request prior to final approval.

41.7(7) IFA shall establish the period of funding for each competition.

[ARC 9162B, IAB 10/20/10, effective 10/1/10; ARC 9281B, IAB 12/15/10, effective 1/19/11]

265—41.8(16) Matching requirement. Subrecipients are not required to provide a match for SAF program funds.

[ARC 9162B, IAB 10/20/10, effective 10/1/10; ARC 9281B, IAB 12/15/10, effective 1/19/11]

265—41.9(16) Funding awards.

41.9(1) *Awards on behalf of multiple applicants.* A city or county government or nonprofit organization may be designated, at the discretion of IFA, to administer contracts for multiple applicants within a prescribed geographic area.

41.9(2) *Right to negotiate.* IFA reserves the right to negotiate the amount of the funding award, the scale of the project, and alternative methods for completing the project.

41.9(3) *Special purpose awards.* IFA may, at its discretion, award any remaining funds as it sees fit within the SAF program regulations.

[ARC 9162B, IAB 10/20/10, effective 10/1/10; ARC 9281B, IAB 12/15/10, effective 1/19/11]

265—41.10(16) Restrictions placed on recipients and subrecipients.

41.10(1) *Use as provider of homeless services.* Any building for which SAF program funds are used must be maintained as a provider of homeless services for not less than a three-year period or for not less than a ten-year period if the funding amounts are used for major rehabilitation or conversion of the building. If SAF program funds are used for operating and maintenance costs, the recipient must continue to provide homeless services for at least one year. In calculating the applicable time period, the beginning dates of the three- and ten-year periods are determined as follows:

a. In the case of a building that was not operated as a provider of services for the homeless before receipt of SAF program funds, on the date of initial occupancy as a provider of services to the homeless.

b. In the case of a building that was operated as a provider of services to the homeless before the receipt of SAF program funds, on the date that those funds are first obligated to the homeless service provider.

41.10(2) *Building standards.* Any building for which SAF program funds are used for renovation, conversion, rehabilitation, or major rehabilitation must comply with all state and local building codes and ordinances and any other applicable legal requirements.

41.10(3) *Participation by homeless individuals and families.*

a. SAF program recipients and subrecipients must certify that homeless individuals and families are involved, through employment, volunteer services, or otherwise, in constructing, renovating, maintaining, and operating assisted facilities and in providing services.

b. Subrecipients must have the participation of at least one homeless person or formerly homeless person on their board of directors or equivalent policymaking entity. The Secretary of HUD may issue a waiver to the subrecipient if the subrecipient agrees to otherwise consult with homeless or formerly homeless individuals when making policy decisions.

41.10(4) *Termination of assistance and grievance procedure.* Subrecipients must establish and implement a formal process to terminate assistance to individuals or families who violate program requirements. This process must include a hearing that provides individuals a full opportunity to address issues of noncompliance.

41.10(5) *Data reporting system.* Recipients and subrecipients shall participate in the HUD-approved Homeless Management Information System (HMIS) adopted by IFA as required in the executed contract, unless the recipient or subrecipient qualifies as a domestic violence shelter, in which case the recipient or subrecipient shall participate in required data collection and reporting activities using a comparable database as defined by HUD (HUD HMIS Data Standards, Revised Notice March 2011).

41.10(6) *Ensuring confidentiality.* Subrecipients must develop and implement procedures to guarantee the confidentiality of records pertaining to any individual to whom family violence prevention or treatment services are provided. In addition, the address or location of any family violence shelter shall not be disclosed to any person except with written authorization of the shelter director.

[ARC 9162B, IAB 10/20/10, effective 10/1/10; ARC 9281B, IAB 12/15/10, effective 1/19/11; ARC 9642B, IAB 7/27/11, effective 7/8/11]

265—41.11(16) Compliance with applicable federal and state laws and regulations. All recipients and subrecipients must comply with the Iowa Code governing activities performed under this program. Use of SAF program funds must comply with the following additional requirements.

41.11(1) *Nondiscrimination and equal opportunity.* All recipients and subrecipients must comply with the following:

a. The requirements of Title VIII of the Civil Rights Act of 1968, 42 U.S.C. Sections 3601-19 and implementing regulations; Executive Order 11063 and implementing regulations at 24 CFR Part 107 (June 1, 1999); and Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2002d) and implementing regulations at 24 CFR Part 1 (June 1, 1999).

b. Affirmative action requirements as implemented with Executive Orders 11625, 12432, and 12138 which require that every effort be made to solicit the participation of minority and women business enterprises (MBE/WBE) in governmental projects.

c. The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. Sections 6101-07).

d. The prohibitions against discrimination against disabled individuals under Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act.

41.11(2) *Auditing.* All recipients and subrecipients must comply with auditing requirements as outlined in the Single Audit Act of 1996 and the implementing regulations found in OMB Circular A-133.

[ARC 9162B, IAB 10/20/10, effective 10/1/10; ARC 9281B, IAB 12/15/10, effective 1/19/11]

265—41.12(16) Administration.

41.12(1) *Contracts.* Upon selection of an application for funding, IFA will either initiate a contract or authorize a recipient to initiate a contract on IFA's behalf. If a local city or county government or a nonprofit organization is designated as the recipient, the subrecipients shall remain responsible for adherence to the requirements of the SAF program rules. These rules and applicable federal and state laws and regulations become part of the contract. Certain activities may require that permits or clearances be obtained from other state agencies before the start of the project. Funding awards may be conditioned upon the timely completion of these requirements.

41.12(2) *Record keeping and retention.* Financial records, supporting documents, statistical records, and all other records pertinent to the funded program shall be retained by the recipient and the subrecipient. Private, nonprofit subrecipients covered through an SAF program contract from a local city or county government or nonprofit organization are responsible for ensuring that pertinent records of their SAF program funds be made available to the administering city or county or nonprofit organization and to IFA upon request. Proper record retention must be in accordance with the following:

- a.* Records for any assisted activity shall be retained for three years after the end of the grant period and, if applicable, until audit procedures are completed and accepted by IFA.
- b.* Representatives of the state auditor's office and IFA shall have access to all books, accounts, documents, records, and other property belonging to or in use by a recipient or a subrecipient pertaining to the receipt of assistance under these rules.

41.12(3) *Reporting requirements.* Recipients and subrecipients shall submit reports to IFA as prescribed in the contract. Reports include:

a. HMIS data reports. All recipients and subrecipients of SAF program funds are required to submit regular reports on clients served using the current HMIS reporting process as prescribed by IFA unless a recipient or subrecipient qualifies as a domestic violence shelter, in which case the recipient or subrecipient must submit reports using a comparable database. A comparable database must collect client-level data over time and generate unduplicated aggregate reports based on that data.

b. Requests for funds. Recipients and subrecipients must submit requests for funds during the contract year at intervals and using forms as prescribed by IFA. IFA may perform any review or field inspections it deems necessary to ensure program compliance, including review of recipient and subrecipient records and reports. When problems of compliance are noted, IFA may require remedial actions to be taken. Failure to respond to notifications of need for remedial action may result in the remedies for noncompliance set forth in subrule 41.12(5).

41.12(4) *Amendments to contracts.* Contracts may be amended on an individual basis in emergency situations. Any request to amend a contract must be submitted in writing to IFA. IFA will determine if the request to amend is justified based on the material presented in the letter of request. No amendment is valid until approved in writing by IFA.

41.12(5) *Remedies for noncompliance.* At any time, IFA may, for cause, find that a recipient or subrecipient is not in compliance with the requirements under this program. Reasons for a finding of noncompliance include, but are not limited to, the recipient's or subrecipient's use of program funds for activities not described in its application, the recipient's or subrecipient's failure to complete approved activities in a timely manner, the recipient's or subrecipient's failure to comply with any applicable state or federal rules or regulations, or the recipient's or subrecipient's lack of continuing capacity to carry out the approved program in a timely manner. At its discretion, IFA may employ any of the following remedies for noncompliance:

- a.* Issue a warning letter stating that continued failure to comply with program requirements within a stated period of time will result in a more serious action.
- b.* Condition a future award.
- c.* Direct the recipient or subrecipient to stop incurring costs with grant funds.
- d.* Require that some or all of the awarded funds be remitted to the state.
- e.* Reduce the level of funds the recipient or subrecipient would otherwise be entitled to receive.
- f.* Elect not to provide future award funds to the recipient or subrecipient until appropriate actions are taken to ensure compliance.

[ARC 9162B, IAB 10/20/10, effective 10/1/10; ARC 9281B, IAB 12/15/10, effective 1/19/11; ARC 9642B, IAB 7/27/11, effective 7/8/11]

These rules are intended to implement Iowa Code section 16.5(1) "r" and 2010 Iowa Acts, Senate File 2088, division XXII.

[Filed Emergency ARC 9162B, IAB 10/20/10, effective 10/1/10]

[Filed ARC 9281B (Notice ARC 9163B, IAB 10/20/10), IAB 12/15/10, effective 1/19/11]

[Filed Emergency ARC 9642B, IAB 7/27/11, effective 7/8/11]

CHAPTER 42
EMERGENCY SHELTER GRANTS PROGRAM
[Prior to 10/20/10, see 261—Ch 24]

265—42.1(16) Purpose. The emergency shelter grants program is designed to improve the quality of services to the homeless and to prevent individuals and families from becoming homeless. The program will make available needed services and help meet the costs of providing essential social services so that homeless individuals and families have access not only to safe and sanitary shelter but also to the supportive services and other types of assistance the individuals and families need to improve their situations.

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11]

265—42.2(16) Definitions. When used in this chapter, unless the context otherwise requires:

“Applicant” means an eligible provider of eligible homeless services which is applying for funds through the ESG program.

“Domestic violence shelter” means a homeless shelter primarily or exclusively serving clients who are homeless due to domestic violence.

“Emergency shelter” means a homeless shelter with overnight sleeping accommodations, the primary purpose of which is to provide temporary shelter for homeless persons.

“ESG program” or *“ESGP”* means the Emergency Shelter Grants Program created pursuant to Title 42 of the U.S. Code (42 U.S.C. Section 11375) as well as parts of Title 24 of the Code of Federal Regulations (24 CFR Part 576).

“HMIS” means the Homeless Management Information System, which is a client-level data collection and management system implemented at the community level that allows for better coordination among agencies providing services to clients.

“Homeless” or *“homeless individual”* shall have the meaning set forth in 42 U.S.C. Section 11302.

“Homeless prevention” means activities or programs designed to prevent the incidence of homelessness.

“Homeless shelter” means a facility providing temporary housing and services for homeless persons.

“HUD” means the U.S. Department of Housing and Urban Development.

“HUD ESG Desk Guide” means the document published by HUD which supplements the federal regulations pertaining to the Emergency Shelter Grants Program.

“IFA” means the Iowa finance authority.

“Major rehabilitation” means rehabilitation that involves costs in excess of 75 percent of the value of the building before rehabilitation.

“Obligated” means that IFA has placed orders, awarded contracts, received services, or entered into similar transactions that require payment from the grant amount. Funds awarded by IFA by a written agreement or letter of award requiring payment from the grant amount are obligated.

“Private, nonprofit organization” means a secular or religious organization described in Section 501(c) of the Internal Revenue Code which:

1. Is exempt from taxation under Subtitle A of the Internal Revenue Code,
2. Has an accounting system and a voluntary board,
3. Practices nondiscrimination in the provision of services to clients, and
4. Has registered with the state of Iowa as a nonprofit corporation.

“Recipient” means any private, nonprofit organization or city or county government to which IFA distributes ESG program funds.

“Rehabilitation” means repair directed toward an accumulation of deferred maintenance; replacement of principal fixtures and components of existing buildings; installation of security devices; and improvement through alterations or additions to, or enhancements of, existing buildings, including improvements to increase the efficient use of energy in buildings. Costs of rehabilitation may include labor, materials, tools, and other costs of improving buildings.

“Renovation” means rehabilitation that involves costs of 75 percent or less of the value of the building before rehabilitation.

“*SAF*” means the shelter assistance fund, as set forth in 265—Chapter 41.

“*Subrecipient*” means any private, nonprofit organization or city or county government to which the recipient distributes ESG program funds.

“*Transitional housing*” means a project that is designed to provide housing and appropriate support services to homeless persons to facilitate movement to independent living within a specified time frame.

“*Value of the building*” means the monetary value assigned to a building by an independent real estate appraiser or as otherwise reasonably established by the recipient or the subrecipient.

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11]

265—42.3(16) Eligible applicants. City governments, county governments, and private, nonprofit organizations are eligible applicants under the ESG program. City or county governments may apply on behalf of a nonprofit service provider within their jurisdictions when the nonprofit service provider serves homeless and near-homeless clients by providing overnight shelter, meals, clothing, transportation, counseling, child care, legal services, medical services, transitional housing services, and other services eligible under the ESG program as determined by HUD.

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11]

265—42.4(16) Eligible activities. Eligible activities are based on guidelines established by the Stewart B. McKinney Homeless Assistance Act of 1987 and are further defined in 24 CFR Part 576 and the HUD Desk Guide. Activities assisted by this program may include only the following:

42.4(1) Construction. Rehabilitation, renovation, or conversion of buildings for use in the provision of services for the homeless.

42.4(2) Essential services—new or increased level of services. Provision of essential services if the service is a new service or quantifiable increase in the level of service. ESG program funds may not be used to replace existing funding sources for services; however, once a new or increased level of service meets the standards, ESG program funds may be used to continue funding the service in subsequent years. No more than 30 percent of the IFA annual grant amount may be used for this purpose.

42.4(3) Operating costs. Payment of emergency shelter and transitional housing operating costs including shelter maintenance, operations, rent, repairs, security, fuel, equipment, insurance, utilities, food and furnishings. Staff salaries, including fringe benefits, paid under the operating cost category are limited to 10 percent of the grant amount. Maintenance and security costs are not subject to the 10 percent standard.

42.4(4) Prevention of homelessness. Payment for eligible activities that assist in the prevention of homelessness. Grants may be made for homeless prevention as long as the total amount of such grants does not exceed 30 percent of the total emergency shelter grants program allocation. Examples of eligible activities include, but are not limited to, short-term subsidies to help defray rent and utility arrearages for families faced with eviction or termination of utility services; security deposits or first month’s rent to enable a family to acquire its own rental unit; programs to provide mediation services for landlord-tenant disputes; or programs to provide legal representation to indigent tenants in eviction proceedings. Other possible types of homeless prevention efforts include making needed payments to prevent a home from falling into foreclosure.

42.4(5) Administrative costs. A recipient may use a portion of a grant received for administrative purposes as determined by IFA. The maximum allowed for these administrative costs shall be 5 percent of the state ESGP allocation. IFA reserves the authority for distribution of administrative funds.

42.4(6) Homeless Management Information System (HMIS) projects. IFA may award grants for HMIS implementation to support data collection, reporting, and analysis as long as the total amount of such grants does not exceed 10 percent of the total emergency shelter grants program allocation. Eligible costs may include equipment, software, services, personnel, space and operations for HMIS activities. In the case of parties to a supportive housing grant agreement or renewal grant agreement with the United States Department of Housing and Urban Development for HMIS implementation who are in need of the required cash match, IFA may in its discretion award such a grant, subject to the

terms of this subrule, without regard to the application and review provisions of rules 265—42.6(16) and 265—42.7(16).

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11; ARC 9633B, IAB 7/27/11, effective 7/8/11]

265—42.5(16) Ineligible activities. As a general rule, any activity that is not authorized under the provisions of P.L. 100-628 is ineligible to be carried out with ESG program funds. The following are items specifically listed as ineligible in 24 CFR Part 576.

1. Acquisition or new construction of an emergency shelter for the homeless;
2. Rehabilitation administration, such as preparation of work specifications, loan processing, or inspections;

3. Renovation, rehabilitation, or conversion of buildings owned by primarily religious organizations or entities unless the activity complies with all requirements as outlined in 24 CFR Part 576.23(a) and (b).

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11]

265—42.6(16) Application procedures. IFA will issue requests for proposals from eligible applicants as often as the state expects funding from HUD. Requests for proposals will combine the ESG program with the SAF program. The proposals must be submitted on the forms or on-line system prescribed by IFA and must, at a minimum, include the amount of funds requested, a description of the need for the funds, documentation of other available funding sources, the source of required local match, and the estimated number of persons to be served by the applicant. Maximum and minimum grant awards will be established by IFA for each competition.

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11; ARC 9633B, IAB 7/27/11, effective 7/8/11]

265—42.7(16) Application review process. The following procedures will be used in the review of applications.

42.7(1) Review; threshold criteria; eligible activities.

a. Review of applications. Applications will be reviewed by a panel appointed by IFA. Applications will be reviewed based on priorities established during each competition round, in accordance with the state of Iowa consolidated plan for housing and community development. Applicant experience and capacity, as well as past performance, are top priorities. Other review criteria include, but are not limited to, program design, community need, program accessibility, program partnerships, the number of persons or households served, and how well the program leverages other resources.

b. Threshold criteria. IFA will identify threshold criteria that all programs must meet in order to be eligible.

c. Activities eligible during funding cycle. Each competition round will also specify which of the total eligible program activities will be supported during that competition round.

42.7(2) If an application contains an activity determined to be ineligible, at IFA's discretion, the ineligible activity may be deleted from the application or referred to another funding source or the application may be disqualified.

42.7(3) IFA reserves the right to negotiate directly with the applicant to determine the priority of funding requested within the application.

42.7(4) IFA staff may review applications with other state agencies or other groups with expertise in the area of serving homeless persons before making final funding recommendations. Consultation with other agencies is intended to avoid duplication and promote maximum utilization of funding sources.

42.7(5) Based on the review process, IFA may revise the overall funding request by activity or funding level and recommend a final funding figure to the IFA board of directors for approval.

42.7(6) IFA reserves the right to negotiate all aspects of a funding request prior to final approval.

42.7(7) IFA shall establish the term of each funding award.

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11]

265—42.8(16) Matching requirement. Each subrecipient of ESG program funds must match the grant amount with an equal amount. In calculating the amount of matching funds, the following may be included: the value of any donated material or building used in the project, the value of any lease on a building used in the project, any salary paid to staff of the subrecipient or to any state subrecipient in carrying out the ESG program, and the time and services contributed by volunteers at the rate of \$5 per hour. For purposes of this rule, IFA will determine the value of any donated material or building, or any lease, using any method reasonably calculated to establish fair market value. IFA may allow an exemption of matching funds up to a maximum of \$100,000 of the state allocation received from HUD for the subrecipients least capable of providing such matching amounts. The subrecipient must document its need to participate in this exemption from matching requirements and must receive prior approval from IFA before the exemption will be effective.

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11]

265—42.9(16) Funding awards.

42.9(1) Awards on behalf of multiple applicants. A city or county government or nonprofit organization may be designated, at the discretion of IFA, to administer a contract for multiple applicants within a prescribed geographic area.

42.9(2) Right to negotiate. IFA reserves the right to negotiate the amount of the funding award, the scale of the project, and alternative methods for completing the project.

42.9(3) Special purpose awards. IFA may, at its discretion, award any remaining funds as it sees fit within the ESG program regulations.

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11]

265—42.10(16) Restrictions placed on recipients and subrecipients.

42.10(1) Use as provider of homeless services. Any building for which ESG program funds are used must be maintained as a provider of homeless services for not less than a three-year period or for not less than a ten-year period if the funding amounts are used for major rehabilitation or conversion of the building. If program funds are used for operating and maintenance costs, the recipient must continue to provide homeless services for at least one year. In calculating the applicable time period, the beginning dates of the three- and ten-year periods are determined as follows:

a. In the case of a building that was not operated as a provider of services for the homeless before receipt of ESG program funds, on the date of initial occupancy as a provider of services to the homeless.

b. In the case of a building that was operated as a provider of services to the homeless before the receipt of ESG program funds, on the date that those funds are first obligated to the homeless service provider.

42.10(2) Building standards. Any building for which ESG program funds are used for renovation, conversion, rehabilitation, or major rehabilitation must comply with all state and local building codes and ordinances and any other applicable legal requirements.

42.10(3) Participation by homeless individuals and families.

a. A recipient or subrecipient of ESG program funds must certify that it involves, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating assisted facilities and in providing services.

b. Local government recipients or subrecipients or qualified recipients or subrecipients must have the participation of at least one homeless person or formerly homeless person on their board of directors or equivalent policymaking entity. The Secretary of HUD may issue a waiver to the recipient or subrecipient if the recipient or subrecipient agrees to otherwise consult with homeless or formerly homeless individuals when making policy decisions.

42.10(4) Termination of assistance and grievance procedure. Recipients and subrecipients must establish and implement a formal process to terminate assistance to individuals or families who violate program requirements. This process must include a hearing that provides individuals a full opportunity to address issues of noncompliance.

42.10(5) Data reporting system. Recipients and subrecipients shall participate in the HUD-approved Homeless Management Information System (HMIS) adopted by IFA as required in the executed contract,

unless the recipient or subrecipient qualifies as a domestic violence shelter, in which case the recipient or subrecipient shall participate in required data collection and reporting activities using a comparable database defined by HUD (HUD HMIS Data Standards, Revised Notice March 2011).

42.10(6) Ensuring confidentiality. Recipients and subrecipients must develop and implement procedures to guarantee the confidentiality of records pertaining to any individual to whom family violence prevention or treatment services are provided. In addition, the address or location of any family violence shelter shall not be disclosed to any person except with written authorization of the shelter director.

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11; ARC 9633B, IAB 7/27/11, effective 7/8/11]

265—42.11(16) Compliance with applicable federal and state laws and regulations. All recipients and subrecipients shall comply with the Iowa Code governing activities performed under this program and with all applicable provisions of the Stewart B. McKinney Homeless Assistance Act of 1987 and its implementing regulations. Use of ESG program funds must comply with the following additional requirements.

42.11(1) Nondiscrimination and equal opportunity. All recipients and subrecipients must comply with the following:

a. The requirements of Title VIII of the Civil Rights Act of 1968, 42 U.S.C. Sections 3601-19 and implementing regulations; Executive Order 11063 and implementing regulations at 24 CFR Part 107 (June 1, 1999); and Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2002d) and implementing regulations at 24 CFR Part 1 (June 1, 1999).

b. Affirmative action requirements as implemented with Executive Orders 11625, 12432, and 12138 which require that every effort be made to solicit the participation of minority and women business enterprises (MBE/WBE) in governmental projects.

c. The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. Sections 6101-07).

d. The prohibitions against discrimination against disabled individuals under Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act.

42.11(2) Auditing. All recipients and subrecipients must comply with auditing requirements as outlined in the Single Audit Act of 1996 and the implementing regulations found in OMB Circular A-133.

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11]

265—42.12(16) Administration.

42.12(1) Contracts. Upon selection of an application for funding, IFA will either initiate a contract or authorize another entity to initiate a contract on IFA's behalf. If a local city or county government or a nonprofit organization is designated as the recipient, the subrecipients covered through the contract shall remain responsible for adherence to the requirements of the ESG program, including the federal ESG program rules and the state program rules as set forth herein. These rules and applicable federal and state laws and regulations become part of the contract. Certain activities may require that permits or clearances be obtained from other state or federal agencies before the start of the project. Funding awards may be conditioned upon the timely completion of these requirements.

42.12(2) Record keeping and retention. Financial records, supporting documents, statistical records, and all other records pertinent to the funded program shall be retained by the recipient and the subrecipient. Private, nonprofit recipients and subrecipients covered through an ESG program contract from a local city or county government or nonprofit organization are responsible for ensuring that pertinent records of their ESG program funds be made available to the administering city or county or nonprofit organization and to IFA upon request. Proper record retention must be in accordance with the following:

a. Records for any assisted activity shall be retained for three years after the end of the grant period and, if applicable, until audit procedures are completed and accepted by IFA.

b. Representatives of the Secretary of the U.S. Department of Housing and Urban Development, the Inspector General, the General Accounting Office, the state auditor's office, and IFA shall have access to all books, accounts, documents, records, and other property belonging to or in use by a recipient or subrecipient pertaining to the receipt of assistance under these rules.

42.12(3) *Reporting requirements.* Recipients and subrecipients shall submit reports to IFA as prescribed in the contract. Reports include:

a. HMIS data reports. All recipients and subrecipients of ESG program funds are required to submit regular reports on clients served using the current HMIS reporting process as prescribed by IFA unless a recipient or subrecipient qualifies as a domestic violence shelter, in which case the recipient or subrecipient must submit reports using a comparable database. A comparable database must collect client-level data over time and generate unduplicated aggregate reports based on that data.

b. Requests for funds. Recipients and subrecipients must submit requests for funds during the contract year at intervals and using forms as prescribed by IFA. IFA may perform any review or field inspections it deems necessary to ensure program compliance, including review of recipient and subrecipient records and reports. When problems of compliance are noted, IFA may require remedial actions to be taken. Failure to respond to notifications of need for remedial action may result in the remedies for noncompliance set forth in 42.12(5).

42.12(4) *Amendments to contracts.* Contracts may be amended on an individual basis in emergency situations. Any request to amend a contract must be submitted in writing to IFA. IFA will determine if the request to amend is justified based on the material presented in the letter of request. No amendment is valid until approved in writing by IFA.

42.12(5) *Remedies for noncompliance.* At any time, IFA may, for cause, find that a recipient or subrecipient is not in compliance with the requirements under this program. Reasons for a finding of noncompliance include, but are not limited to, the recipient's or subrecipient's use of program funds for activities not described in its application, the recipient's or subrecipient's failure to complete approved activities in a timely manner, the recipient's or subrecipient's failure to comply with any applicable state or federal rules or regulations, or the recipient's or subrecipient's lack of continuing capacity to carry out the approved program in a timely manner. At IFA's discretion, remedies for noncompliance may include the following:

a. Issue a warning letter stating that continued failure to comply with program requirements within a stated period of time will result in a more serious action.

b. Condition a future award.

c. Direct the recipient or subrecipient to stop incurring costs with grant funds.

d. Require that some or all of the awarded funds be remitted to the state.

e. Reduce the level of funds the recipient or subrecipient would otherwise be entitled to receive.

f. Elect not to provide future award funds to the recipient or subrecipient until appropriate actions are taken to ensure compliance.

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11; ARC 9633B, IAB 7/27/11, effective 7/8/11]

These rules are intended to implement Iowa Code section 16.5(1) "m" and 42 U.S.C. Sections 11371 through 11378.

[Filed Emergency ARC 9166B, IAB 10/20/10, effective 10/1/10]

[Filed ARC 9282B (Notice ARC 9167B, IAB 10/20/10), IAB 12/15/10, effective 1/19/11]

[Filed Emergency ARC 9633B, IAB 7/27/11, effective 7/8/11]

CHAPTER 11 CLAIMS

591—11.1(455G) Reserving and payment of claims pursuant to Iowa Code sections 455G.9 and 455G.21.

11.1(1) All claims shall be investigated and overall fund liability estimated. Claims shall be reserved for their estimated exposure to the fund on the specific site. The reserve shall reflect the estimated exposure less copayment or deductible obligations.

11.1(2) Reserves shall reflect estimated total cost to the program, regardless of actual funding provided.

11.1(3) Prioritization pursuant to Iowa Code section 455G.12 shall be accomplished with rules if required and as determined by the board.

11.1(4) An estimated reserve for incurred but not reported claims shall be developed.

11.1(5) Reserves may be changed to reflect changing knowledge on eligible claims.

11.1(6) Owner or operator compliance with regulatory and program requirements shall be evaluated as part of the investigation. Failure to meet regulatory and program requirements which exist at the time of payment may result in cost recovery claims as provided under Iowa Code section 455G.13.

11.1(7) Cause of loss and determination of responsible parties shall be ascertained as a part of the investigation process. Independent environmental consultants may be retained to assist in the determination of the cause of the release and for the application of coverage.

591—11.2(455G) Eligible claims. All claims eligible for benefits under Iowa Code sections 455G.9 and 455G.21 will be subject to available funding. In order to be eligible for reimbursement under any claim type, the claimant must prove either that the release was reported by October 26, 1990, or that the release occurred prior to October 26, 1990. Releases that cannot be proven to have occurred prior to October 26, 1990, must be addressed using the owners' or operators' chosen financial responsibility mechanism. Failure to carry an adequate financial responsibility mechanism, such as continuous insurance, is deemed to be self-insurance. The provisions of these rules do not confer a right upon any party.

11.2(1) *Financial responsibility required.* To be eligible for benefits under Iowa Code sections 455G.9 and 455G.21, any owner or operator applying for such benefits shall demonstrate that such owner or operator had continuous financial responsibility coverage in effect using a method provided for under 567—Chapter 136, beginning no later than October 26, 1990. If an owner or operator is unable to demonstrate financial responsibility coverage, or there is a lapse in the financial responsibility coverage for any period after October 26, 1990, the owner or operator will no longer be eligible for benefits if the site for which benefits are being requested had active tanks during the time the owner or operator was unable to demonstrate financial responsibility or if there is a lapse of financial responsibility coverage subject to the following limitation:

a. The financial responsibility coverage requirement shall not be required on temporarily closed tanks consistent with subrule 11.2(3).

b. An owner or operator who has had a lapse of financial responsibility coverage shall be allowed to remain eligible for remedial benefits if the following conditions are met:

(1) The owner or operator applies for reinstatement of remedial benefits and submits a reinstatement fee according to the following table:

<u>Years for Which Financial Responsibility Not Demonstrated</u>	<u>Per-Tank Reinstatement Fee</u>
July 1, 1991, through June 30, 1992	\$330
July 1, 1992, through June 30, 1993	\$415
July 1, 1993, through June 30, 1994	\$495
July 1, 1994, through June 30, 1995	\$575
July 1, 1995, through present	\$450

For each fiscal year in which the owner or operator lacked financial responsibility coverage, such owner or operator shall pay the per-tank reinstatement fee for such fiscal year, as set forth above, for each active tank. The reinstatement fees above are for full years and shall be prorated on a per-month basis for each month or portion of a month for which there was a lapse of financial responsibility coverage. There is a minimum reinstatement fee of \$500 per site per lapse of coverage.

(2) At the time of the application for reinstatement of remedial benefits, all active tanks must be in compliance with all state and federal technical and financial responsibility requirements.

(3) The owner or operator is in compliance with all other requirements of this chapter.

(4) An owner or operator is only eligible for reinstatement of remedial benefits one time per site. The one-time reinstatement may remedy multiple past lapses in financial responsibility. If there is subsequent lapse of financial responsibility coverage on any active tank on site after remedial benefits have been reinstated, the owner or operator will lose eligibility for remedial benefits and will be subject to cost recovery pursuant to Iowa Code section 455G.13.

c. A claim for benefits under any portion of 591—Chapter 11 that has been deemed ineligible due to a failure to maintain financial responsibility on a tank or tanks may be eligible, notwithstanding the failure to maintain financial responsibility, under the following conditions:

(1) The release for which the claim is made occurred prior to October 26, 1990; and

(2) The claimant is in compliance with all other requirements of this chapter; and

(3) The claimant pays a reinstatement fee equal to the reinstatement fee provided for in 591—paragraph 11.2(1) “b.” The amount of \$150 per tank shall be used to calculate the charge for reinstatement for the period from October 26, 1990, to July 1, 1991; and

(4) The application for reinstatement complies with 591—subparagraph 11.2(1) “b”(4).

11.2(2) *Impact of insurance on remedial account benefits.* If owners or operators have insurance to cover corrective action costs for their underground storage tanks after January 1, 1985, other than pursuant to Iowa Code section 455G.11 or other than pursuant to 40 CFR 280.95, 280.96, 280.99, 280.101, 280.102, and 280.103, the remedial account is available to eligible owners and operators only as follows:

a. The remedial account will pay the deductible amount applicable to such insurance for owners and operators who are eligible for remedial account benefits, subject to the applicable remedial account deductible and copayment provisions.

b. Except for payments made pursuant to 11.2(2) “a,” remedial account benefits are secondary to all such insurance.

c. Remedial account benefits shall not be used to reimburse insurance companies for proceeds paid by those companies pursuant to the terms of such insurance.

d. In the event of a dispute between the insurance company and the owner or operator or the board regarding insurance coverage, otherwise eligible owners and operators will receive remedial account benefits upon assigning their interest in such insurance to the board.

11.2(3) *Technical requirements.* An owner or operator eligible for remedial benefits who complied with 11.2(1) by using program insurance authorized pursuant to Iowa Code section 455G.11 will remain eligible for remedial benefits even though the insured tanks were not upgraded by December 22, 1998, under the following conditions:

a. The owner or operator temporarily closed the tanks in compliance with the closure requirements of the environmental protection commission 567—subrule 135.9(1) while the tanks were still insured under Iowa Code section 455G.11; and

b. The owner or operator certifies that the tanks continuously had financial responsibility coverage acceptable under 567—Chapter 136 from October 26, 1990, until the temporary closure; and

c. The owner or operator establishes that the tanks were empty and were not used during the entire period of the temporary closure. “Empty” means all materials have been removed from the tanks using commonly approved practices so that no more than 2.5 centimeters (1 inch) of residue, or 0.3 percent of weight of the total capacity of the tank system, remain in the tank system; and

d. The owner or operator establishes that, during the entire period of the temporary closure, vent lines were left open and functioning and all other lines, pumps, manways, and ancillary equipment were capped and secured; and

e. The owner or operator certifies that, within one year from the time the tanks were temporarily closed, the tanks were either permanently closed, removed and replaced, or upgraded; and

f. The owner or operator certifies that the upgraded tanks and replacement tanks meet the new tank or upgrade standards of the environmental protection commission rule 567—135.3(455B); and

g. Financial responsibility for the tanks, using a method provided for under 567—Chapter 136, was in effect; and

h. The owner or operator meets all other applicable requirements pertaining to remedial benefits. An owner or operator receiving remedial account benefits pursuant to this subrule will be subject to cost recovery pursuant to Iowa Code section 455G.13 in the event the owner or operator does not comply with all of the conditions of this subrule, the provisions of the certifications required by this subrule, and applicable statutes and rules of the environmental protection commission and the board.

11.2(4) *Compliance with report submittal deadlines.* To be eligible for remedial or innocent landowner benefits, claimants must comply with all department of natural resources (DNR) deadlines for submittal of Tier 1, Tier 2 and corrective action design report (CADR) requirements as published in 567—Chapter 135, and must, by June 30, 2000, or 180 days after confirmation of a release from the site, whichever is later, provide a copy of an executed contract with a certified groundwater professional, which contract must include a timetable that meets DNR deadlines for completion of a Tier 1 and Tier 2 if required.

11.2(5) *Tanks and sites not eligible.* The following underground storage tanks are not eligible for remedial account benefits:

a. Tanks that were taken out of use prior to January 1, 1974. For purposes of this rule, tanks taken out of use are tanks which have not actually been used by either depositing petroleum in the tanks or by pumping petroleum from the tanks.

b. Underground storage tanks which were removed from the ground prior to July 1, 1985.

c. Underground storage tanks which were closed prior to July 1, 1985.

d. Underground storage tanks which do not contain petroleum. For the purposes of this subrule, petroleum means petroleum, including crude oil or any fraction of crude oil which is liquid at standard conditions of temperature and pressure (60° F and 14.7 pounds per square inch absolute). The following two categories of substances are not petroleum:

(1) Substances which are regulated as hazardous waste under 42 U.S.C. 6921 et seq.

(2) Substances which would be regulated under 42 U.S.C. 9601 et seq., if the substance were to leak from a tank, related piping, other part of the system or from spills or releases into the environment, including lands, waters and air.

11.2(6) *Retroactive claims.*

a. Retroactive claims are:

(1) Claims which were filed with the board prior to January 31, 1990, for releases reported to the DNR after July 1, 1987, but prior to May 5, 1989; and

(2) If filed by a city or county, claims which were filed with the board prior to September 1, 1990, for releases reported to DNR after July 1, 1987, but prior to May 5, 1989; and

(3) Claims filed with the board prior to September 1, 1990, for releases reported to the DNR after January 1, 1984, but prior to July 1, 1987.

b. Retroactive claims shall be eligible for reimbursement if all of the following criteria are met:

(1) The claim has been verified and all supporting materials have been supplied to the administrator for review; and

(2) A signed and notarized claim form is submitted to the board; and

(3) The claimant is not a person whose method of showing proof of financial responsibility sufficient to comply with the federal Resource Conservation and Recovery Act or the Iowa environmental protection commission's underground storage tank financial responsibility rules,

567—Chapter 136, is one in which the ultimate financial responsibility for corrective action costs is not shifted from the owner or operator; and

(4) The claimant satisfies the copayment requirements of Iowa Code section 455G.9(4); and

(5) The claimant has not filed bankruptcy anytime after:

1. July 1, 1987, if the release was reported to DNR prior to May 5, 1989, but after July 1, 1987; or

2. January 1, 1985, if the release was reported to DNR prior to July 1, 1987, but after January 1, 1984.

11.2(7) Remedial claims. Remedial claims are claims filed with the board prior to February 26, 1994, for releases reported to DNR after May 5, 1989, and on or before October 26, 1990. Remedial claims shall be eligible for reimbursement if all of the following criteria are met:

a. A signed and notarized claim form is submitted to the board.

b. All bills and estimates pertinent to the submitted claim are received by the board, along with any contracts, any remedial plans and correspondence for budget approval on the work required by DNR.

c. The work is complete or, if ongoing, is approved by the administrator and in accordance with priority rules.

d. The owner or operator has met all relevant deadlines and DNR's technical requirements for cleanup. To be eligible, corrective action costs must be reasonable and necessary to complete the work required by DNR. The board shall reimburse or pay only those corrective action costs which will cover the work as mandated by Iowa Code sections 455B.471 to 455B.479.

e. The claimant satisfies the copayment requirements of Iowa Code section 455G.9(4).

11.2(8) Innocent landowner claims. Consistent with Iowa Code chapter 455G, the board may reimburse an owner of petroleum-contaminated property, or an owner or operator of an underground storage tank located on such property, who, but for this rule because of the date the release was reported, because of the date the claim was filed, because the tank(s) in question was removed from service prior to January 1, 1974, or because the tank(s) in question was removed or permanently closed prior to July 1, 1985, would not be eligible to receive benefits under Iowa Code section 455G.9. Eligible expenses shall not exceed the benefits such claimant would otherwise receive if such claimant were eligible under Iowa Code section 455G.9(1) "a"(1) to (3). All such reimbursements shall be subject to:

- The copayment requirements of Iowa Code section 455G.9(4); claims filed that meet the priority in paragraph "b" or "d" of this subrule shall not incur any copayment for costs incurred after January 1, 2010;

- The requirements of 11.2(1); and

- The available funding and limitations of the innocent landowner fund created by Iowa Code section 455G.21(2) "a" for corrective action.

In the event the innocent landowner fund lacks sufficient funds to pay all claims submitted, innocent landowner claims shall be subject to the following priority:

a. *Late filed retroactive claims.* For releases reported to DNR on or after January 1, 1984, but prior to May 5, 1989:

(1) Claims must be filed with the board by February 26, 1994.

(2) All costs incurred on or after July 10, 1996, must be preapproved by the board to be eligible for reimbursement.

b. *Preregulation claims.* For releases from petroleum underground storage tanks (USTs) which are not eligible for remedial account benefits under Iowa Code section 455G.9(1) "a"(1) to (3) only because the USTs were taken out of use prior to January 1, 1974, or permanently closed or removed before July 1, 1985:

(1) Claims must be filed with the board by December 1, 1997.

(2) USTs must not have been operated on the site since the time the tanks were taken out of use or permanently closed.

(3) All costs incurred after July 10, 1996, must be preapproved by the board to be eligible for reimbursement.

(4) The owner cannot have claimed bankruptcy on or after the date of the reported release.

c. Late filed remedial claims. For releases reported by owners of petroleum-contaminated property as defined under Iowa Code section 455G.9(8) who did not comply with the reporting or filing deadlines identified in this chapter, with priority to those owners who did not have knowledge of the USTs or did not have control over the property:

- (1) Claims must be filed with the board by December 1, 1997.
- (2) The owner or operator must have reported a known release to DNR consistent with DNR requirements.
- (3) The owner did not have knowledge of the UST or of a release impacting the property prior to acquisition of the property if the property was acquired on or after October 26, 1990, or, if the owner did have such knowledge, the acquisition was necessary to protect a security interest.
- (4) All costs incurred on or after July 10, 1996, must be approved by the board to be eligible for reimbursement.
- (5) The owner cannot have claimed bankruptcy on or after the date of the reported release.

d. Acquired properties. For releases reported by owners of petroleum-contaminated property as defined under Iowa Code section 455G.9(8) who acquired the petroleum-contaminated property after October 26, 1990, and who did not comply with the reporting or filing deadlines identified in this chapter:

- (1) Claims must be filed with the board by December 1, 1997.
- (2) The owner or operator must have reported a known release to the DNR consistent with DNR requirements.
- (3) The owner could not have been the owner or operator of the UST system which caused the release prior to acquiring the property after October 26, 1990.
- (4) All costs incurred on or after December 1, 1996, must be preapproved by the board to be eligible for reimbursement.
- (5) For claims submitted under this paragraph, the precorrective action value shall be the purchase price paid by the owner after October 26, 1990.
- (6) For claims submitted under this paragraph, the purchase must have been an arm's-length transaction.
- (7) The owner cannot have claimed bankruptcy on or after the date of the reported release.

e. Other innocent landowner claims. Claims for releases submitted to the board after December 1, 1997, which would have been eligible for benefits pursuant to paragraphs "a" through "d" of this subrule if filed by December 1, 1997, will be eligible for reimbursement subject to a first-in, first-out priority and the funding limitations of the innocent landowner fund. The owner must demonstrate that the owner has met all other requirements of this subrule in order to receive benefits.

11.2(9) County tax deed claims. The board shall pay 100 percent of the costs of corrective action and third-party liability for a release situated on property acquired by a county for delinquent taxes pursuant to Iowa Code chapters 445 through 448, for which a responsible owner or operator able to pay, other than the county, cannot be found. A county is not a "responsible party" for a release in connection with property which it acquires in connection with delinquent taxes, and does not become a responsible party by sale or transfer of property so acquired. Third-party liability specifically excludes any claim, cause of action, or suit for personal injury including, but not limited to, loss of use or of private enjoyment, mental anguish, false imprisonment, wrongful entry or eviction, humiliation, discrimination, or malicious prosecution.

11.2(10) Hardship funding claims. The board shall pay 100 percent of corrective action costs and third-party liability not to exceed \$1 million for a release for which the eligible claimant, pursuant to Iowa Code section 455G.9, is subject to financial hardship if all of the following conditions are met:

- a.* The claimant has completed the claim form, had it notarized, and submitted it to the board on or before December 1, 1996.
- b.* The claimant is a small business as defined in Iowa Code section 455G.2(18) and has submitted self-certification forms documenting small business status.
- c.* The claimant does not have a net worth of \$15,000 or greater and has submitted documentation of net worth in accordance with Iowa Code section 455G.10(4) and 591—12.6(455G) or the claimant is an individual who is financially unable to pay copayments associated with the cost of corrective action as determined by using the DNR's evaluation of ability to pay found at 567—135.17(455B).

- d. The release for which the claim has been made occurred prior to October 26, 1990.
- e. The release for which the claim has been made was reported to DNR on or before December 1, 1996.
- f. The site for which the claim is made is in compliance with all technical requirements of 567—Chapters 135 and 136.
- g. The site for which the claim is made shall not be deeded or quitclaimed to the state or board in lieu of cleanup.
- h. Property taxes shall not be delinquent, unpaid or otherwise overdue.
- i. A responsible party with the ability to pay corrective action expenses cannot be found.
- j. The release for which the claim is made is one for which the federal Underground Storage Tank Trust Fund or other federal moneys do not provide coverage.
- k. The work is complete or, if ongoing, is approved by the administrator or the board pursuant to the cost containment provisions of Iowa Code section 455G.12A.
- l. All claims and payments are subject to prioritization guidelines as may be published by the board at the time of payment.

11.2(11) *Governmental subdivision claims.* The board shall pay 100 percent of the costs of corrective action for a governmental subdivision in connection with a tank, where the release occurred, if the governmental subdivision did not own or operate the tank from which the release occurred, and the property was acquired pursuant to eminent domain after the release occurred. A governmental subdivision which acquires property pursuant to eminent domain in order to obtain benefits under this paragraph is not a responsible party for a release in connection with property which the governmental subdivision acquired, and does not become a responsible party by sale or transfer of property so acquired.

Also, the board shall pay 100 percent of the costs of corrective action for a governmental subdivision in connection with a tank which was in place on the date the release was discovered or reported if the governmental subdivision did not own or operate the tank which caused the release and if the governmental subdivision did not obtain the property upon which the tank giving rise to the release is located on or after May 3, 1991. Property acquired pursuant to eminent domain in connection with a United States Department of Housing and Urban Development-approved urban renewal project is eligible for payment of costs under this subrule whether or not the property was acquired on or after May 3, 1991.

11.2(12) *Inheritance claims.* The board may pay claims for corrective action for the costs of a release if the claimant proves that all of the following conditions are met:

- a. The property upon which the tank causing the release was situated was transferred by inheritance, devise, or bequest.
- b. The property upon which the tank causing the release was situated has not been used to store or dispense petroleum since December 31, 1975.
- c. The person who received the property by inheritance, devise, or bequest was not the owner of the property during the period of time when the release which is the subject of the corrective action occurred.
- d. The release was reported to the board by October 26, 1991.

11.2(13) *Financial institution claims.* Reserved.

11.2(14) *State agency or department claims.* Reserved.

11.2(15) *No further action claims.* The board shall pay for corrective action in response to a high-risk condition caused by a release from an underground storage tank located on a site for which the department of natural resources, after January 31, 1997, has issued a no further action certificate under Iowa Code section 455B.474. As a condition of receiving benefits under this subrule, the department of natural resources must determine that the condition necessitating the corrective action was not a result of a release that occurred after the issuance of the no further action certificate, and that the site qualified for remedial benefits under Iowa Code section 455G.9 prior to the issuance of the no further action certificate. No more than \$100,000 per site may be used for the costs of a corrective action under this subrule. This

subrule does not confer a legal right on an owner or operator of petroleum-contaminated property or on any other person to receive benefits under this subrule.

[ARC 9623B, IAB 7/27/11, effective 8/31/11]

591—11.3(455G) Eligible costs.

11.3(1) Claims may be paid monthly. Claim payments will include all approved expenses, including tank and piping removal for active systems if the tank and piping removal occurred on or before March 17, 1999, and other costs as provided in Iowa Code chapter 455G. Replacement of excavated materials shall be a reimbursable expense. Contractors and groundwater professionals shall confirm that the work meets DNR requirements.

11.3(2) The board shall reimburse or pay eligible expenses only if those expenses have been approved prior to the commencement of work, as required by Iowa Code section 455G.12A. No corrective action costs shall be reimbursed unless reasonable, necessary and approved by the board or its designee.

11.3(3) When practical to do so, the board shall bid any work associated with this chapter with firms that have indicated to the administrator an interest to be on the board's list of firms supplying goods or services. Any firm supplying goods and services including, but not limited to, testing laboratories, cleanup equipment manufacturers and leak detection testing firms may also be included in the vendor list.

11.3(4) Reimbursement to the owner, operator or contractor under this chapter is subject to overall site cleanup report prioritization and classification. Sites which are classified as low risk are eligible for remedial account benefits for monitoring expenses required by Iowa Code section 455B.474(1) "f"(6), unless the tank is removed, upgraded, or replaced.

11.3(5) The board may reimburse expenses associated with tank systems described in paragraphs 11.2(5) "a" to "c" when all of the following conditions have been documented:

- a. The release for which benefits are being requested is from tanks operated on a site which is otherwise eligible for benefits under Iowa Code section 455G.9(1); and
- b. The release for which benefits are being requested is commingled with an on-site release which is eligible for benefits under Iowa Code chapter 455G; and
- c. The site has had active underground storage tanks continuously from the date of the release for which benefits are being requested until the date on which the release for which the site is currently eligible for benefits was reported to DNR; and
- d. The claimant certifies that the tanks for which benefits are being requested will be permanently closed within 90 days of notification of eligibility and does permanently close the tanks in compliance with rule 567—135.9(455B) within the 90 days; and
- e. All other eligibility requirements have been met.

11.3(6) An owner or operator of a site which is eligible for benefits under Iowa Code section 455G.9 who discovered a tank on the site after October 26, 1990, shall maintain eligibility for benefits even if that tank does not meet the financial responsibility requirements continuous since October 26, 1990, if all of the following conditions have been met:

- a. The tank was discovered after October 26, 1990; and
- b. The tank has not been operated since the discovery and has never been operated by the claimant; and
- c. The tank has been emptied of all product as soon as practicable after it was discovered; and
- d. The tank was properly registered with DNR as soon as practicable after it was discovered; and
- e. The tank is a regulated tank, pursuant to Iowa Code section 455G.1, which previously contained only petroleum products as defined in this chapter; and
- f. The tank is permanently closed within 90 days of discovery or by July 1, 1995, whichever date is later.

11.3(7) Payments for conducting risk-based corrective action (RBCA) analysis on monitor-only sites. When reviewing applications for benefits for the cost of completing an RBCA analysis on a site which has an approved Site Cleanup Report (SCR) requiring monitoring only, or on a site with an SCR

submitted between August 15, 1996, and January 31, 1997, the criteria in this rule shall apply when determining payment eligibility.

a. One hundred percent of the costs may be preapproved not to exceed \$10,000 for all activities associated with the completion of the Tier 1, Tier 2, or Tier 3 analysis. Costs which exceed \$10,000 will be subject to the limitations of Iowa Code section 455G.9(1)“f.”

b. Sites receiving benefits pursuant to this rule must comply with the other requirements of board rules.

11.3(8) Ineligible costs and copayments.

a. The board shall pay any eligible claims subject to copayment requirements unless the payment of any copayment for the claim is specifically exempted in Iowa Code section 455G.9.

b. The claimant shall pay a copayment equal to the greater of either \$5,000 or 18 percent of the first \$80,000. All approved costs that exceed \$80,000, up to the statutory benefit limit for the claim, will be paid by the board.

c. The first \$20,000 of costs incurred for assessment of a site eligible to receive benefits will be exempted from the copayment requirement. Assessment includes, but is not limited to, risk-based corrective action Tier 1 and Tier 2 reports and site cleanup reports. Assessment does not include excavation of an underground storage tank for the purposes of repairing a leak or removal of a tank, removal of contaminated soil, cleansing of groundwaters or surface waters, actions taken to address contamination and its possible influence on a receptor or potential receptor or the preparation of a corrective action design report.

11.3(9) The board shall only reimburse eligible claimants for corrective action. “Corrective action” means an action taken to minimize, eliminate, or clean up a release to protect the public health and welfare or the environment. Corrective action includes, but is not limited to, excavation of an underground storage tank for the purposes of repairing a leak or removal of a tank, removal of contaminated soil, and cleansing of groundwaters or surface waters. Corrective action does not include replacement of an underground storage tank or other capital improvements to the tank. Corrective action specifically excludes third-party liability. Corrective action includes the expenses incurred to prepare a site cleanup report or risk-based corrective action tiered report for approval by the department of natural resources detailing the planned response to a release or suspected release, but not necessarily all actions proposed to be taken by a site cleanup report.

11.3(10) Expenses of cleanup not required. Any expenses incurred for cleanup beyond the level required by the department of natural resources are not covered under any of the accounts established under the fund. The cleanup expenses incurred for work completed beyond what is required are the responsibility of the person contracting for the excess cleanup.

11.3(11) Permanent closure of an underground storage tank system.

a. Costs for the permanent closure of an underground storage tank system are eligible for reimbursement from the board if the following requirements are met:

(1) The underground storage tank system to be permanently closed meets one or more of the following criteria:

1. The system does not meet department performance standards for a new or an upgraded tank, or
2. The system is required to be closed in accordance with department rules, or
3. The owner of the system has opted to close the system at the owner’s own will prior to allowing the tank to become out of compliance.

(2) For the purpose of this rule, an “underground storage tank system” means all of the underground storage tanks, any connected underground piping, any underground ancillary equipment and any containment system on a particular site identified by a department UST registration number.

(3) The permanent closure activities occurred on or after July 1, 2010.

b. A claim for reimbursement from the board is subject to board preapproval requirements.

c. The board may elect to provide for the direct removal of any tanks eligible through a board-contracted vendor. If costs exceed the \$15,000 limit, the board may pursue a cost-recovery action in accordance with Iowa Code section 455G.13.

d. Claimants shall be responsible for ensuring that any persons performing work meet all applicable licensing requirements or all applicable certification requirements or both that may exist at the time of completion of the work to be reimbursed. If the work is performed by a board-contracted vendor, the board shall ensure that licensing and certification requirements of the general contractor are met.

e. Claims made under this subrule are not subject to Iowa Code chapter 455G copayment requirements.

f. The board may contract with a vendor to remove tanks at sites that fail to meet the requirements of subparagraph 11.3(11)“a”(1). These sites shall be subject to cost recovery, which may include placement of a lien on the property.

g. Prior to the permanent closure, budgets shall be provided to the administrator that outline the cost and scope of work proposed. The cost for system closure shall be separated from all other corrective action costs incurred on an individual tank site.

h. The maximum closure benefit payable from the remedial account on any tank system to be permanently closed after July 1, 2010, shall be \$15,000 for any one site identified by a department UST registration number.

i. Tanks and sites not eligible. Underground storage tanks that are not eligible for underground storage tank system closure benefits include:

- (1) Farm or residential tanks of 1100 gallons or less capacity used for storing motor fuel for noncommercial purposes,
- (2) Tanks used for storing heating oil for consumptive use on the premises where stored,
- (3) Septic tanks, and
- (4) Underground storage tanks which do not contain petroleum.

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591—11.4(455B,455G) Tank and piping upgrades and replacements.

11.4(1) Definitions.

“*Administrator*” means the Iowa comprehensive petroleum underground storage tank fund board administrator as provided in Iowa Code section 455G.5.

“*Automatic in-tank gauging*” means a device used for leak detection and inventory control in tanks that meets DNR’s standards as set out in 567—paragraph 135.5(4)“d.”

“*Board*” or “*UST board*” means the Iowa comprehensive petroleum underground storage tank fund board as provided for in Iowa Code section 455G.4.

“*DNR*” means the Iowa department of natural resources.

“*Environmentally sensitive site*” means, as classified under the Unified Soil Classification System as published by the American Geologic Institute or ASTM designation: D 248785, any site where the native soils outside or under the tank zone are materials where more than half of the material is larger than no. 200 sieve size. As used herein, “tank zone” means the native soils immediately outside the excavation area or nearest native soil under the tank.

The following classifications of soil descriptions are considered environmentally sensitive:

1. Well-graded gravels, gravel-sand mixtures, little or no fines, classified using the group symbol “GW”;
2. Poorly graded gravels, gravel-sand mixtures, little or no fines, classified using the symbol “GP”;
3. Silty gravels, gravel-sand-clay mixtures, classified using the symbol “GM”;
4. Clayey gravels, gravel-sand-clay mixtures, classified using the symbol “GC”;
5. Well-graded sands, gravelly sands, little or no fines, classified using the symbol “SW”;
6. Poorly graded sands, gravelly sands, little or no fines, classified using the symbol “SP”;
7. Silty sands, sand-silt mixtures, classified using the symbol “SM”.

In addition, environmentally sensitive sites include any site which is within 100 feet of a public or private well, other than a monitoring well on a site, and any site where the tank is installed in fractured bedrock or “Karst” formations. Any one of the above-specified conditions shall constitute an environmentally sensitive site under this rule.

A site shall be classified as environmentally sensitive when:

Fifty percent or more of the soils from a boring or a monitoring well are logged and classified as one or more of the areas noted in paragraphs “1” through “7” above and 50 percent of the total wells located on or immediately next to the property show the same or similar conditions. If no testing of the site has occurred and the soil condition as classified under the Unified Soil Classification System in or under the tank zone is one of the conditions as classified, the site shall be considered to be environmentally sensitive. Reports previously prepared on the site and available from DNR may be used to make the soil classification. At least three borings/wells must have been completed. If fewer than three have been completed, an additional well which triangulates the tank zone shall be completed to determine the types of soils present.

For the purposes of this definition, fractured bedrock or “Karst” formations appearing in the tank zone or piping run, or within a 25-foot diameter around the tank zone or piping run, or within 25 feet of the bottom of the tank excavation area shall be classified environmentally sensitive. Generally available data, including that available from local utilities, may be used when specific drilling has not determined that conditions specified in this definition have not been identified on the site. If the site shows any surface condition which is fractured bedrock or “Karst,” then the site shall be classified as being environmentally sensitive.

For the purposes of this definition, wells are those which are in use and the water is being used for human consumption. The well as developed shall generate a volume of two gallons per minute, unless a holding device or cistern is used for water pumped. An abandoned well, or a well being used for some other purpose, shall not be included in the definition, unless the end use may be for human consumption.

“*Piping replacement*” means any modernization or modification of piping at a site which includes the removal of the existing piping and the installation of new piping.

“*Piping upgrade*” means any modernization or modification of piping at a site which does not include the removal of the existing piping and the installation of new piping.

“*System upgrade*” or “*upgrading*” means the modernization or modification of underground storage tank system installations through tank and piping upgrades to comply with the rules of DNR under 567—subrule 135.3(2).

“*Tank replacement*” means any modernization or modification of a tank at a site which includes the removal of the existing tank and the installation of a new tank.

“*Tank upgrade*” means any modernization or modification of a tank at a site which does not include the removal of the existing tank and the installation of a new tank.

“*Upgrade benefit*” means the cost of board-approved systems specified in subrule 11.4(6). If the installation includes a board-approved secondary containment system, the upgrade benefit relates specifically to the cost difference attributable to the board-approved system specified in subrule 11.4(6). The upgrade benefit includes the following:

1. Cost of double walled tanks and pipes minus the cost of single wall tanks and piping, or
2. Cost of double walled steel tanks minus the cost of single wall steel tanks, or
3. Cost of nonmetallic double walled tanks minus the cost of nonmetallic single wall tanks.

In addition, the upgrade benefit shall include the cost of the additional labor, if any, to install the board-approved system which is in excess of the cost to install a single wall system. The upgrade benefit also includes the cost of automatic in-tank gauging equipment when installed in conjunction with secondary containment, but such costs shall be limited to the lowest expense for the system best suited to provide a reasonable degree of protection.

If the system does not include the approved secondary containment, no upgrade benefit is payable. Secondary containment as defined in subrule 11.4(6) is mandatory after March 25, 1992.

11.4(2) The maximum upgrade benefit payable from the remedial fund on any tank or system installed since January 1, 1985, to meet upgrading requirements shall be \$10,000 for any one site, subject to applicable copayment requirements as specified in Iowa Code section 455G.9. Benefits payable under subrule 11.4(6) cover the additional cost of the tank system upgrade or replacement as set forth in the definition of upgrade benefits. Prior to installation, budgets shall be provided to the administrator outlining the cost and scope of work proposed and the cost differences between a single

wall system and the board-approved system which is proposed. The cost of the original upgraded or new system without board-approved secondary containment as defined herein is not subject to these fund upgrade benefits for tank system upgrades or replacements.

11.4(3) The cost for system upgrading or replacement shall be separated from all other corrective action costs incurred on an individual site classified as high risk or low risk by DNR. The upgrade benefits are not payable on any site classified by DNR as a No Action Required site.

11.4(4) Upgrade benefit payments under subrule 11.4(6) shall be made upon evidence that the upgrade met standards in 567—Chapter 135 and DNR registration Form 148 has been completed and mailed to DNR and the administrator. These upgrade benefits shall be paid only if all requirements of 591—Chapter 15 have been met. If a site does not comply with the applicable provisions of 591—Chapter 15, the site is not eligible for these upgrade benefits unless installation or upgrade occurred prior to October 26, 1990. In that event, the individual reimbursement request will be reviewed to determine if other information is necessary before upgrade benefit payment can be made. In addition, the completed work must be within the budget previously approved by the administrator pursuant to Iowa Code section 455G.12A.

11.4(5) Upgrades and replacements allowed at contaminated sites. Iowa Code section 455B.474(1)“f”(8) provides that the replacement or upgrade of tank systems on high- or low-risk sites must be equipped with a secondary containment system with monitoring of the space between the primary and secondary containment structures or other board-approved methodology. The following are the upgrade and replacement options which are board approved for purposes of Iowa Code section 455B.474(1)“f”(8):

a. Tank upgrades. The following options are allowed for tank upgrades on any contaminated site:

- (1) The tank meets DNR’s new tank standards set forth in 567—paragraph 135.3(1)“a”; or
- (2) The tank meets DNR’s upgrade standards set forth in 567—paragraphs 135.3(2)“b” and “d.”

b. Tank replacements. The following options are allowed for tank replacements:

(1) On any contaminated site, a double walled tank or a tank equipped with a secondary containment system meeting DNR’s new tank standards set forth in 567—subrule 135.3(1) and with monitoring of the space between the primary and secondary containment structures in accordance with DNR’s standards set forth in 567—paragraph 135.5(4)“g.”

(2) On any contaminated site which is not environmentally sensitive the following additional options are allowed:

1. Tanks meeting DNR’s new tank standards set forth in 567—paragraph 135.3(1)“a” with automatic in-tank gauging acceptable under 567—subrule 135.5(4).

2. Tanks meeting DNR’s new tank standards set forth in 567—paragraph 135.3(1)“a” with an electronic tank level monitor used in conjunction with a DNR-approved statistical reconciliation method acceptable under 567—subrule 135.5(4). The owner must have monthly records on premises which show that all requirements for statistical reconciliation have been met.

c. Piping upgrades. The following options are allowed for piping upgrades at any contaminated site:

- (1) Double walled piping.
- (2) Single walled piping installed in a barrier providing secondary containment between soil and the piping.

(3) Single wall piping meeting DNR’s upgrade standards set forth in 567—paragraph 135.3(2)“c” and leak detection standards set forth in 567—paragraph 135.5(2)“b.”

d. Piping replacements. The following options are allowed for piping replacements:

- (1) For any contaminated site:
 1. Double walled piping.
 2. Single walled piping installed in a barrier providing secondary containment between soil and the piping.
3. On suction systems, single wall piping when only one check valve is on the line directly under the pump.

(2) For sites which are not environmentally sensitive, suction systems with single wall piping meeting DNR's upgrade standards set forth in 567—subrule 135.3(2) on pipes with leak detection are allowed if there is no more than one valve on the piping. All suction systems shall be installed with the slope of the pipe back to the tank and shall have only one check valve located directly under the suction pump.

e. Spill and overflow protection, cathodic protection, and leak detection. Nothing in this rule alters DNR's upgrade requirements for spill and overflow protection, cathodic protection, and leak detection.

11.4(6) Tank and piping upgrades and replacements eligible for upgrade benefits.

a. The following tank and piping upgrades or replacements are eligible for upgrade benefits if completed on or before March 17, 1999:

(1) Double walled tanks.

(2) Single walled tanks meeting DNR's requirements as specified in 567—paragraph 135.5(4) "g," the tank zone providing an impermeable barrier between native soils and the tank, thus providing secondary containment.

(3) Double walled piping.

(4) Single wall piping installed in a barrier system, providing secondary containment between the soil and the piping. Nothing in this rule alters upgrade requirements for spill/overflow protection, cathodic protection and leak detection.

b. The following tank and piping upgrades and replacements are eligible for upgrade benefits when the tank upgrade or replacement occurred on or after March 25, 1992, and on or before March 17, 1999, on sites which are classified as being environmentally sensitive:

(1) Pressurized systems: Tanks and piping shall comply with one of the tank and piping options specified in 11.4(6) "a."

(2) Suction systems: Tanks and piping shall be installed with the slope of the pipe back to the tank on all suction systems. All suction system pipes shall have the check valve located at the suction pump. These systems shall meet one of the options specified in 11.4(6) "a," except that piping may be single wall when one check valve is on the line, under the pump.

c. The following tank and piping upgrades and replacements are eligible for upgrade benefits when the tank upgrade or replacement occurred on or after March 25, 1992, and on or before March 17, 1999, on sites which are not classified as being environmentally sensitive:

(1) Pressurized systems: Piping shall comply with one of the pipe options specified in 11.4(6) "a." Tanks installed must be either one of the options specified in 11.4(6) "a" or be a DNR-approved tank with automatic in-tank gauging pursuant to 567—subrule 135.5(4) or, in lieu of automatic in-tank gauging, be a DNR-approved electronic tank level monitor in conjunction with a DNR-approved UST statistical inventory reconciliation method pursuant to 567—subrule 135.5(4). Should the statistical inventory reconciliation method be used, the owner shall have monthly records on premises showing that all requirements on the system have been met. If either the automatic in-tank gauging or the electronic level reconciliation device is used, the program shall pay only the cost of the system installed and not ongoing monthly or yearly expenses.

(2) Suction systems: Tanks and piping shall be installed with the slope of the pipe back to the tank on all suction systems. All suction system piping shall have the check valve located at the suction pump. These systems must be either one of the options specified in 11.4(6) "a" or:

1. Pipes: Single wall pipes meeting DNR's upgrade standards on the pipes with leak detection pursuant to 567—subrule 135.3(2). If more than one valve is on the pipe, this option is not available.

2. Tanks: Must be either one of the options specified in 11.4(6) "a" or be a DNR-approved tank with automatic in-tank gauging pursuant to 567—subrule 135.5(4) or, in lieu of automatic in-tank gauging, be a DNR-approved electronic tank level monitor in conjunction with a DNR-approved UST statistical inventory reconciliation method pursuant to 567—subrule 135.5(4). Should the statistical inventory reconciliation method be used, the owner shall have monthly records on premises showing that all requirements on the system have been met. If either the automatic in-tank gauging or the electronic level reconciliation device is used, the program shall pay only the cost of the system installed and not ongoing monthly or yearly expenses.

11.4(7) Any system upgrade or replacement installed prior to March 25, 1992, which complies with the provisions of this rule shall be eligible for upgrade benefits if the system has been fully upgraded or replaced in accordance with 567—Chapter 135.

11.4(8) The board reserves the right to establish cost controls on the purchase and installation of underground storage tank equipment and systems. Upgrade benefits are not equipment and capital improvements for purposes of Iowa Code section 455G.9(6).

11.4(9) Evidence of insurance or self-insurance shall be provided to DNR upon completion of the upgrade or replacement unless the Iowa UST program provides insurance coverage. If the Iowa UST program provides coverage, the administrator will notify DNR.

11.4(10) Failure to obtain approval or qualify for upgrade benefits may be appealed as provided in 591—Chapter 17.

This rule is intended to implement Iowa Code sections 455B.474(1) “f”(8) and 455G.9(1) “a”(5).

591—11.5(455G) Cost recovery and containment. The board, in addition to measures described to preapprove all costs, may take other actions to ensure costs are reasonable and to recover moneys spent at sites that become ineligible. Subrogation and cost recovery opportunities shall be pursued against any responsible party, as deemed appropriate by the board to do so.

11.5(1) Definitions. For purposes of this rule, the following terms shall have the meanings set forth below:

“*Affiliate*” means a person who, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the person specified. Entities which have one or more officers or directors in common, whether simultaneously or otherwise, shall be rebuttably presumed to be affiliates.

“*Control*,” “*controlling*,” “*controlled by*” and “*under common control with*” means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies or day-to-day activities of a person, whether through ownership, by contract, or otherwise.

“*Predecessor*” means a person the major portion of whose business and assets another person acquired in a single succession or in a series of related successions in which the acquiring person acquired the major portion of the business and assets of the acquired person.

11.5(2) Liens on tank sites.

a. The board shall have a lien upon real property where an underground storage tank, which was the subject of corrective action, was or is situated and the board has incurred expenses related to the property.

b. The board’s lien shall be in the amount the owner or operator of the underground storage tank is liable to the fund.

c. The liability of an owner or operator shall be no less than the full and total costs of corrective action and bodily injury or property damage to third parties, as specified in Iowa Code section 455G.13(1), if the owner or operator has not complied with the financial responsibility or other underground storage tank rules of DNR or the fund or with Iowa Code chapter 455G.

d. The liability of an owner or operator eligible for assistance under the remedial account shall be no less than the amount of any unpaid portion of the deductible or copayment.

e. A lien shall attach at the later of the following: the date the fund incurs an expense related to the property or the date the board mails a certified letter, return receipt requested, to the last-known address of the owner or operator demanding payment for fund expenses.

f. Liens under this rule shall continue for ten years from the time the lien attaches unless sooner released or otherwise discharged. The lien may be extended, within ten years from the date the lien attaches, by filing for record a notice with the appropriate county official of the appropriate county and from the time of such filing, the lien shall be extended to the property in such county for ten years, unless sooner released or otherwise discharged, with no limit on the number of extensions.

g. In order to preserve a lien against subsequent mortgagees, purchasers, or judgment creditors, for value and without notice of the lien, on any property situated in a county, the board shall file with the recorder of the county in which the property is located a notice of the lien. The county recorder of

each county shall record such liens in the index of income tax liens. The recorder shall endorse on each notice of lien the day, hour, and minute when received and preserve the notice, and shall immediately index the notice in the index book and record the lien in the manner provided for recording real estate mortgages, and the lien shall be effective from the time of indexing.

h. The board shall pay a recording fee as provided in Iowa Code section 331.604 for the recording of the lien, or for its satisfaction.

i. Upon the payment of the lien as to which the board has filed notice with a county recorder, the board shall file with the recorder a satisfaction of the lien and the recorder shall enter said satisfaction on the notice on file in the recorder's office and indicate that fact on the index.

11.5(3) *Fraud disqualification of contractors.* No contractor or subcontractor shall be eligible for payment with UST program funds, nor shall any owner or operator be reimbursed for payments to any contractor or subcontractor, nor shall any contract between an owner or operator and a contractor or subcontractor be approved if the administrator determines that such contractor or subcontractor or any of its predecessors, affiliates, directors, officers, general partners, or beneficial owners of 10 percent or more of such contractor or subcontractor:

a. Has, within the preceding five years, pleaded guilty to, been convicted of, or received a suspended or deferred judgment for theft, fraud, or any other felony or misdemeanor involving deceit, attempted deceit, or falsification or alteration of documents;

b. Is subject to an order, judgment, or decree of a court of competent jurisdiction (including probation) or an administrative order of any state or federal administrative agency entered within the previous five years, which order, judgment, decree, or administrative order temporarily, preliminarily, or permanently enjoins or restrains the contractor or subcontractor from engaging in or continuing the performance of any services relating to underground storage tanks or the assessment or remediation of petroleum contamination as a consequence of the contractor's or subcontractor's own misconduct, negligence, or misfeasance; or

c. Has, within the previous five years, obtained, or attempted to obtain, UST fund benefits:

- (1) By means of any intentional or reckless misrepresentation;
- (2) By means of any falsified or altered document;
- (3) For services which were not performed; or
- (4) By other improper means.

11.5(4) *Waiver or modification of disqualification.* The administrator may, at the administrator's discretion, to avoid undue hardship to tank owners or operators, to the UST program, or to contractors or subcontractors, waive any disqualification under this rule as to work performed or to be performed for any or for specified owners or operators. The administrator may also condition or qualify the eligibility of a person or entity that is subject to disqualification hereunder to be paid with UST program funds upon such terms and conditions as the administrator shall, in the administrator's discretion, deem necessary to protect the integrity of the UST program. A disqualification under this rule shall cease to exist if:

a. The basis for the disqualification has been removed by the legislative body, court, or administrative agency creating it;

b. The court or administrative agency with primary jurisdiction over the disqualifying event issues a written waiver of the disqualification;

c. The court or administrative agency with primary jurisdiction over the disqualifying event declines in writing to enforce the disqualification; or

d. More than five years have elapsed since the occurrence of the disqualifying event.

11.5(5) *Notice of disqualification; reinstatement.* Following a determination that a contractor or subcontractor is disqualified pursuant to this rule, the administrator shall notify the contractor or subcontractor in writing that it is no longer eligible to be compensated with fund moneys. The administrator shall also, unless the disqualification has been waived as to existing clients of the contractor or subcontractor, notify in writing all known clients of the disqualified contractor or subcontractor who are participating in UST fund programs of the disqualification. A disqualified contractor or subcontractor may apply to the administrator for reinstatement of eligibility. If the disqualification has ceased to exist, the administrator, upon receiving such an application, shall

reinstate the eligibility of the contractor or subcontractor to be compensated with fund moneys. If the disqualification has not ceased to exist, the administrator may, in the administrator's discretion, reinstate the eligibility of the contractor or subcontractor. The administrator shall notify the contractor or subcontractor who has applied for reinstatement of the administrator's decision within 45 days. The administrator may condition or qualify the reinstatement of a contractor's or subcontractor's eligibility to be compensated with UST fund moneys upon such terms and conditions as the administrator shall, in the administrator's discretion, deem necessary to protect the integrity of the UST program.

11.5(6) *Verification of eligibility.* For purposes of implementing this rule, the administrator may require that, prior to the approval by the board of any contract or budget for assessment or remedial work, the contractor specified in such contract or budget, and all subcontractors to perform work thereunder, certify that the contractor or subcontractor is not subject to disqualification for any of the reasons specified in subrule 11.5(3). The administrator may develop, and revise as necessary, a form by which contractors and subcontractors may make such certification.

These rules are intended to implement Iowa Code section 455B.474 and chapter 455G.

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[◇] Two or more ARCs

¹ Effective date delayed 70 days by the Administrative Rules Review Committee at its meeting held October 11, 1994.

² The December 26, 2007, effective date of 11.3(11)“b” was delayed until January 11, 2008, by the Administrative Rules Review Committee at its meeting held December 11, 2007.

OPTOMETRISTS

CHAPTER 180	LICENSURE OF OPTOMETRISTS
CHAPTER 181	CONTINUING EDUCATION FOR OPTOMETRISTS
CHAPTER 182	PRACTICE OF OPTOMETRISTS
CHAPTER 183	DISCIPLINE FOR OPTOMETRISTS

CHAPTER 180
LICENSURE OF OPTOMETRISTS

[Prior to 6/13/01, see 645—Chapter 180]

645—180.1(154) Definitions. For purposes of these rules, the following definitions shall apply:

“Active license” means a license that is current and has not expired.

“Approved program or activity” means a continuing education program or activity meeting the standards set forth in these rules.

“Board” means the board of optometry.

“CELMO” means the Council on Endorsed Licensure Mobility for Optometrists.

“Diagnostically certified optometrist” means an optometrist who is licensed to practice optometry in Iowa and who is certified by the board of optometry to use cycloplegics, mydriatics and topical anesthetics as diagnostic agents topically applied to determine the condition of the human eye for proper optometric practice or referral for treatment to a person licensed under Iowa Code chapter 148 or 150A.

“DPA” means diagnostic pharmaceutical agents.

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“Licensee” means any person licensed to practice as an optometrist in the state of Iowa.

“Licensure by endorsement” means the issuance of an Iowa license to practice optometry to an applicant who is or has been licensed in another state.

“Mandatory training” means training on identifying and reporting child abuse or dependent adult abuse required of optometrists who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

“NBEO” means the National Board of Examiners in Optometry.

“Reactivate” or *“reactivation”* means the process as outlined in rule 180.11(17A,147,272C) by which an inactive license is restored to active status.

“Reciprocal license” means the issuance of an Iowa license to practice optometry to an applicant who is currently licensed in another state which has a mutual agreement with the Iowa board of optometry to license persons who have the same or similar qualifications to those required in Iowa.

“Reinstatement” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

“Therapeutically certified optometrist” means an optometrist who is licensed to practice optometry in Iowa and who is certified by the board of optometry to use diagnostic and therapeutic pharmaceutical agents for the purpose of diagnosis and treatment of the conditions of the human eye and adnexa, with the exclusions cited in Iowa Code chapter 154.

“TPA” means therapeutic pharmaceutical agents.

645—180.2(154) Requirements for licensure.

180.2(1) The following criteria shall apply to licensure:

a. An applicant shall complete a board-approved application form. Application forms may be obtained from the board's Web site (<http://www.idph.state.ia.us/licensure>) or directly from the Board of Optometry, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

b. An applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

c. An applicant shall submit the appropriate fees payable to the Board of Optometry. The fees are nonrefundable.

d. No application will be considered complete until official copies of academic transcripts sent directly to the board from an accredited school or college of optometry are received by the board and the applicant submits proof of satisfactory completion of all educational requirements contained in Iowa Code chapter 154.

e. An applicant shall pass all parts of the NBEO examination in effect at the time of application.

f. Licensees who were issued their licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

g. Incomplete applications that have been on file in the board office for more than two years shall be:

(1) Considered invalid and shall be destroyed; or

(2) Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

h. An applicant shall provide an official verification regarding the status of the applicant's license from the board of examiners in each state in which the applicant is currently or was formerly licensed.

180.2(2) An applicant for licensure to practice optometry in Iowa may only apply to become a therapeutically certified optometrist.

645—180.3(154) Licensure by endorsement. An applicant who has been a licensed optometrist under laws of another jurisdiction for three years or more shall file an application for licensure by endorsement with the board office. An applicant for licensure to practice optometry in Iowa may only apply to be a therapeutically certified optometrist. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

180.3(1) Submits to the board a completed application;

180.3(2) Pays the licensure fee;

180.3(3) Provides an official copy of the transcript sent directly from the school to the board office. The transcript shall show a doctor of optometry degree from an accredited school. In the case of foreign graduates, applicants shall provide evidence of adherence to the current requirements of the NBEO to sit for the examination;

180.3(4) Shows evidence of successful completion of the examination of the NBEO that was current at the time of initial licensure or successful completion of the examination that is currently offered by the NBEO;

180.3(5) Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

a. Licensee's name;

b. Date of initial licensure;

c. Current licensure status; and

d. Any disciplinary action taken against the license;

180.3(6) Provides a statement disclosing and explaining the applicant's involvement in civil litigation related to the practice of optometry in any jurisdiction of the United States, other nations or territories; and

180.3(7) Provides proof of current CELMO certification. Applicants who provide proof of current CELMO certification satisfy the educational requirements for licensure by endorsement. If an applicant is not CELMO-certified, then the applicant must show evidence of the following:

a. The applicant shall supply evidence of completion of a course that has particular emphasis on the examination, diagnosis and treatment of conditions of the human eye and adnexa, provided by an institution accredited by a regional or professional accreditation organization that is recognized or approved by the Council on Postsecondary Accreditation of the United States Department of Education; and

b. The applicant shall show evidence on the transcript of:

(1) Forty hours of didactic education and 60 hours of approved supervised clinical training in the examination, diagnosis, and treatment of conditions of the human eye and adnexa; and

(2) An additional 44 hours of education with emphasis on treatment and management of glaucoma and use of oral pharmaceutical agents for treatment and management of ocular diseases.

c. If the transcript does not show evidence of 40 hours of didactic education; 60 hours of approved supervised clinical training in the examination, diagnosis and treatment of conditions of the human eye and adnexa; and 44 hours of education with emphasis on treatment and management of glaucoma and use of oral pharmaceutical agents for treatment and management of ocular diseases, the applicant shall show satisfactory evidence of completion of a course that includes training in the above-listed areas.

d. Any transcript that shows graduation from an approved school of optometry after January 2, 1988, meets the requirement of 180.3(7) “*b.*”

e. Any transcript that shows graduation from an approved school of optometry after January 2, 1986, meets the requirement of 180.3(7) “*b*”(1) of 40 hours of didactic education and 60 hours of approved supervised clinical training in the examination, diagnosis, and treatment of conditions of the human eye and adnexa. Applicants need to also show evidence of completion of the requirement in 180.3(7) “*b*”(2).

f. An applicant for licensure by endorsement shall provide proof of licensure and evidence of three years of active practice in another state, territory or district of the United States immediately preceding the date of application which has a similar scope of practice to that required in Iowa as determined by the board. When the scope of practice is different, the applicant shall make available to the board evidence of completion of additional hours of training related to the area of the deficiency as prescribed by the board. The applicant may be exempt from the requirement of three years of active practice if, during the above-mentioned three-year period, the applicant was:

- (1) Teaching optometry;
- (2) A military optometrist;
- (3) A supervisory or administrative optometrist; or
- (4) A researcher in optometry.

180.3(8) Applicants for licensure by endorsement who were issued their Iowa licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

645—180.4(147) Licensure by reciprocal agreement. Rescinded IAB 11/5/08, effective 12/10/08.

645—180.5(154) License renewal.

180.5(1) The biennial license renewal period for a license to practice optometry shall begin on July 1 of an even-numbered year and end on June 30 two years later. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

180.5(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

180.5(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—181.2(154) and the mandatory reporting requirements of subrule 180.5(4). A licensee whose license was reactivated during the current

renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

180.5(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."

b. A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."

c. A licensee who, in the scope of professional practice or in the course of the licensee's employment responsibilities, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."

Training may be completed through separate courses as identified in paragraphs "a" and "b" or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs "a" to "c," including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 181.

f. The board may select licensees for audit of compliance with the requirements in paragraphs "a" to "e."

180.5(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

180.5(6) A person licensed to practice optometry shall keep the license certificate and wallet card(s) displayed in a conspicuous public place at the primary site of practice.

180.5(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 5.12(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

180.5(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as an optometrist in Iowa until the license is reactivated. A licensee who practices as an optometrist in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

[ARC 9641B, IAB 7/27/11, effective 8/31/11]

645—180.6(272C) Exemptions for inactive practitioners. Rescinded IAB 8/3/05, effective 9/7/05.

645—180.7(272C) Lapsed licenses. Rescinded IAB 8/3/05, effective 9/7/05.

645—180.8(147) Duplicate certificate or wallet card. Rescinded IAB 11/5/08, effective 12/10/08.

645—180.9(147) Reissued certificate or wallet card. Rescinded IAB 11/5/08, effective 12/10/08.

645—180.10(17A,147,272C) License denial. Rescinded IAB 11/5/08, effective 12/10/08.

645—180.11(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

180.11(1) Submit a reactivation application on a form provided by the board.

180.11(2) Pay the reactivation fee that is due as specified in rule 645—5.12(147,154).

180.11(3) Provide verification of current competence to practice as an optometrist by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 50 hours of continuing education within two years of application for reactivation unless the applicant provides proof of current CELMO certification. Proof of current CELMO certification satisfies continuing education requirements for the purpose of reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 100 hours of continuing education within two years of application for reactivation unless the applicant provides proof of current CELMO certification. If the applicant provides proof of current CELMO certification, the applicant must also verify completion of an additional 50 hours of continuing education within two years of application for reactivation.

[ARC 9641B, IAB 7/27/11, effective 8/31/11]

645—180.12(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 180.11(17A,147,272C) prior to practicing as an optometrist in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 154 and 272C.

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[◇] Two or more ARCs

CHAPTER 181
CONTINUING EDUCATION FOR OPTOMETRISTS

645—181.1(154) Definitions. For the purpose of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Approved program/activity*” means a continuing education program/activity meeting the standards set forth in these rules.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Board*” means the board of optometry.

“*CELMO*” means the Council on Endorsed Licensure Mobility for Optometrists.

“*Continuing education*” means planned, organized learning acts designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Independent study*” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as an optometrist in the state of Iowa.

645—181.2(154) Continuing education requirements.

181.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on July 1 and ending on June 30 of each even-numbered year. Each biennium, each person who is licensed to practice as an optometrist in this state shall be required to complete a minimum of 50 hours of continuing education approved by the board.

181.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 50 hours of continuing education per biennium for each subsequent license renewal.

181.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

181.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

181.2(5) It is the responsibility of each licensee to finance the cost of continuing education.
[ARC 9641B, IAB 7/27/11, effective 8/31/11]

645—181.3(154,272C) Standards.

181.3(1) General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

- a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;
- b. Pertains to common subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date, location, course title, presenter(s);

(2) Numbers of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

181.3(2) Specific criteria.

a. Continuing education hours of credit may be obtained by attending:

(1) The continuing education programs of the Iowa Optometric Association, the American Optometric Association, the American Academy of Optometry, and national regional optometric congresses, schools of optometry, all state optometric associations, and the department of ophthalmology of the school of medicine of the University of Iowa;

(2) Postgraduate study through an accredited school or college of optometry;

(3) Meetings or seminars that are approved and certified for optometric continuing education by the Association of Regulatory Boards of Optometry's Council on Optometric Practitioner Education Committee (COPE); or

(4) Beginning with the July 1, 2006, biennium, therapeutic licensees who provide proof of current CELMO certification meet continuing education requirements for the biennium.

b. The maximum number of hours in each category in each biennium is as follows:

(1) Ten hours of credit for local study group programs that meet the criteria.

(2) Ten hours of credit for correspondence courses, which include written and electronically transmitted material and have a posttest. Certification of the continuing education requirements and of passing the test must be given by the institution providing the continuing education, and that institution must be accredited by a regional or professional accreditation organization which is recognized or approved by the Council on Postsecondary Accreditation of the United States Department of Education.

(3) Six hours of credit for practice management courses.

(4) Two hours of credit for dependent adult abuse and child abuse identification.

(5) Twenty hours of credit for postgraduate study courses.

c. Required continuing education hours. Licensees shall provide proof of continuing education in the following areas:

(1) Current certification in CPR offered in person by the American Heart Association, the American Red Cross or an equivalent organization. At least two hours per biennium is required but credit will be granted for four hours; and

(2) Proof of current CELMO certification. If the licensee does not have current proof of CELMO certification, then the following is required:

1. Twenty hours required from COPE Category B (Ocular Disease and Management) and 20 hours required from COPE Category C (Related Systemic Disease); and

2. Ten additional hours required from any of the COPE Categories of A (Clinical Optometry), B, C and D (Optometric Business Management). Hours obtained in Category D may not exceed 6 hours of the total continuing education hours' requirement.

[ARC 8023B, IAB 7/29/09, effective 9/2/09; ARC 9641B, IAB 7/27/11, effective 8/31/11]

645—181.4(154,272C) Audit of continuing education report. Rescinded IAB 11/5/08, effective 12/10/08.

645—181.5(154,272C) Automatic exemption. Rescinded IAB 11/5/08, effective 12/10/08.

645—181.6(154,272C) Continuing education exemption for disability or illness. Rescinded IAB 11/5/08, effective 12/10/08.

645—181.7(154,272C) Grounds for disciplinary action. Rescinded IAB 11/5/08, effective 12/10/08.

645—181.8(154,272C) Continuing education exemption for inactive practitioners. Rescinded IAB 8/3/05, effective 9/7/05.

645—181.9(154,272C) Continuing education exemption for disability or illness. Rescinded IAB 8/3/05, effective 9/7/05.

645—181.10(154,272C) Reinstatement of inactive practitioners. Rescinded IAB 8/3/05, effective 9/7/05.

645—181.11(272C) Hearings. Rescinded IAB 8/3/05, effective 9/7/05.

These rules are intended to implement Iowa Code section 272C.2 and chapter 154.

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[◇] Two or more ARCs

CHAPTER 182
PRACTICE OF OPTOMETRISTS

[Prior to 8/7/02, see 645—179.4(154), 179.5(154,272C), 179.7(154) and 179.8(155A)]

645—182.1(154) Code of ethics. The board hereby adopts by reference the Code of Ethics of the American Optometric Association as published by the American Optometric Association, 243 North Lindbergh Boulevard, St. Louis, Missouri 63141, modified June 2007.

[ARC 9641B, IAB 7/27/11, effective 8/31/11]

645—182.2(154,272C) Record keeping. Optometrists shall maintain patient records in a manner consistent with the protection of the welfare of the patient. Records shall be permanent, timely, accurate, legible, and easily understandable.

182.2(1) Optometrists shall maintain optometry records for each patient. The records shall contain all of the following:

a. Personal data.

- (1) Name, date of birth, address and, if a minor, name of parent or guardian; and
- (2) Name and telephone number of person to contact in case of emergency.

b. Optometry and medical history. Optometry records shall include information from the patient or the patient's parent or guardian regarding the patient's optometric and medical history. The information shall include sufficient data to support the recommended treatment plan.

c. Patient's reason for visit. When a patient presents with a chief complaint, optometric records shall include the patient's stated visual health care reasons for visiting the optometrist.

d. Clinical examination progress notes. Optometric records shall include chronological dates and descriptions of the following:

- (1) Clinical examination findings, tests conducted, and a summary of all pertinent diagnoses;
- (2) Plan of intended treatment and treatment sequence;
- (3) Services rendered and any treatment complications;
- (4) All ancillary testing, if applicable;
- (5) Vision tests completed and visual acuity;
- (6) Name, quantity, and strength of all drugs dispensed, administered, or prescribed; and
- (7) Name of optometrist who performs any treatment or service or who may have contact with a patient regarding the patient's optometric health.

e. Informed consent. Optometric records shall include documentation of informed consent for procedure(s) and treatment that have potential serious complications and known risks.

182.2(2) Retention of records. An optometrist shall maintain a patient's record(s) for a minimum of five years after the date of last examination, prescription, or treatment. Records for minors shall be maintained for, at minimum, one year after the patient reaches the age of majority (18) or five years after the date of last examination, prescription, or treatment, whichever is longer.

Proper safeguards shall be maintained to ensure the safety of records from destructive elements.

182.2(3) Electronic record keeping. The requirements of this rule apply to electronic records as well as to records kept by any other means. When electronic records are kept, an optometrist shall keep either a duplicate hard-copy record or a back-up unalterable electronic record.

182.2(4) Correction of records. Notations shall be legible, written in ink, and contain no erasures or white-outs. If incorrect information is placed in the record, it must be crossed out with a single nondeleting line and be initialed by an optometric health care worker.

182.2(5) Confidentiality and transfer of records. Optometrists shall preserve the confidentiality of patient records in a manner consistent with the protection of the welfare of the patient. Upon request of the patient or the patient's new optometrist, the optometrist shall furnish such optometry records or copies of the records as will be beneficial for the future treatment of that patient. The optometrist may include a summary of the record(s) with the record(s) or copy of the record(s). The optometrist may charge a nominal fee for duplication of records, but may not refuse to transfer records for nonpayment of any fees. The optometrist may ask for a written request for the record(s).

182.2(6) Retirement or discontinuance of practice. A licensee, upon retirement, or upon discontinuation of the practice of optometry, or upon leaving a practice or moving from a community, shall notify all active patients in writing, or by publication once a week for three consecutive weeks in a newspaper of general circulation in the community, that the licensee intends to discontinue the practice of optometry in the community, and shall encourage patients to seek the services of another licensee. The licensee shall make reasonable arrangements with active patients for the transfer of patient records, or copies of those records, to the succeeding licensee. "Active patient" means a person whom the licensee has examined, treated, cared for, or otherwise consulted with during the two-year period prior to retirement, discontinuation of the practice of optometry, or leaving a practice or moving from a community.

182.2(7) Nothing stated in these rules shall prohibit a licensee from conveying or transferring the licensee's patient records to another licensed optometrist who is assuming a practice, provided that written notice is furnished to all patients.

645—182.3(154) Furnishing prescriptions. Each contact lens or ophthalmic spectacle lens/eyeglass prescription by a licensed optometrist must meet the requirements as listed below:

182.3(1) A contact lens prescription shall contain the following information:

- a. Date of issuance;
- b. Name and address of patient for whom the contact lens or lenses are prescribed;
- c. Name, address, and signature of the practitioner;
- d. All parameters required to duplicate properly the original contact lens;
- e. A specific date of expiration, not to exceed 18 months, the quantity of lenses allowed and the number of refills allowed; and
- f. At the option of the prescribing practitioner, the prescription may contain fitting and material guidelines and specific instructions for use by the patient.

182.3(2) Release of contact lens prescription.

a. After the contact lenses have been adequately adapted and the patient released from initial follow-up care by the prescribing practitioner, the prescribing practitioner shall, upon request of the patient, provide a copy of the contact lens prescription, at no cost, for the duplication of the original contact lens.

b. A practitioner choosing to issue an oral prescription shall furnish the same information required for the written prescription except for the written signature and address of the practitioner. An oral prescription may be released by an O.D. to any dispensing person who is a licensed professional with the O.D., M.D., D.O., or R.Ph. degree or a person under direct supervision of those licensed under Iowa Code chapter 148, 154 or 155A.

c. The issuing of an oral prescription must be followed by a written copy to be kept by the dispenser of the contact lenses until the date of expiration.

182.3(3) An ophthalmic spectacle lens prescription shall contain the following information:

- a. Date of issuance;
- b. Name and address of the patient for whom the ophthalmic lens or lenses are prescribed;
- c. Name, address, and signature of the practitioner issuing the prescription;
- d. All parameters necessary to duplicate properly the ophthalmic lens prescription; and
- e. A specific date of expiration not to exceed two years.
- f. A dispenser of ophthalmic materials, in spectacle or eyeglass form, must keep a valid copy of the prescription on file for two years.

182.3(4) Release of ophthalmic lens prescription.

a. The ophthalmic lens prescription shall be furnished upon request at no additional charge to the patient.

b. The prescription, at the option of the prescriber, may contain adapting and material guidelines and may also contain specific instructions for use by the patient.

c. Spectacle lens prescriptions must be in written format, according to Iowa Code section 147.109(1).

[ARC 9641B, IAB 7/27/11, effective 8/31/11]

645—182.4(155A) Prescription drug orders. Each prescription drug order furnished by a therapeutically certified optometrist in this state shall meet the following requirements:

182.4(1) Written prescription drug orders shall contain:

- a.* The date of issuance;
- b.* The name and address of the patient for whom the drug is dispensed;
- c.* The name, strength, and quantity of the drug, medicine, or device prescribed;
- d.* The directions for use of the drug, medicine, or device prescribed;
- e.* The name, address, and written signature of the practitioner issuing the prescription; and
- f.* The federal drug enforcement administration number, if required under Iowa Code chapter 124.

182.4(2) The practitioner issuing oral prescription drug orders shall furnish the same information required for a written prescription, except for the written signature and address of the practitioner.

[ARC 9641B, IAB 7/27/11, effective 8/31/11]

These rules are intended to implement Iowa Code chapters 154 and 155A.

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CHAPTER 183
DISCIPLINE FOR OPTOMETRISTS

[Prior to 6/13/01, see 645—Ch 180]

[Prior to 8/7/02, see 645—Ch 182]

645—183.1(154) Definitions.

“*Board*” means the board of optometry.

“*Discipline*” means any sanction the board may impose upon licensees.

“*Licensee*” means a person licensed to practice as an optometrist in Iowa.

645—183.2(154,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—183.3(147,272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

183.2(1) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice in this state, which includes the following:

a. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state, or

b. Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

183.2(2) Professional incompetency. Professional incompetency includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other practitioners in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care which is ordinarily exercised by the average practitioner acting in the same or similar circumstances.

d. Failure to conform to the minimal standard of acceptable and prevailing practice of optometry in this state.

e. Inability to practice with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

183.2(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

183.2(4) Practice outside the scope of the profession.

183.2(5) Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

183.2(6) Habitual intoxication or addiction to the use of drugs.

183.2(7) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

183.2(8) Falsification of client records.

183.2(9) Acceptance of any fee by fraud or misrepresentation.

183.2(10) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

183.2(11) Conviction of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee’s ability to practice within the profession,

regardless of whether the judgment of conviction or sentence was deferred. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

183.2(12) Violation of a regulation or law of this state, another state, or the United States, which relates to the practice of the profession.

183.2(13) Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country; or failure by the licensee to report in writing to the board revocation, suspension, or other disciplinary action taken by a licensing authority within 30 days of the final action. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, the report shall be expunged from the records of the board.

183.2(14) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the practice of the profession in another state, district, territory or country.

183.2(15) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

183.2(16) Failure to notify the board within 30 days after occurrence of any judgment or settlement of malpractice claim or action.

183.2(17) Engaging in any conduct that subverts or attempts to subvert a board investigation.

183.2(18) Failure to comply with a subpoena issued by the board, or otherwise fail to cooperate with an investigation of the board.

183.2(19) Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

183.2(20) Failure to pay costs assessed in any disciplinary action.

183.2(21) Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

183.2(22) Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

183.2(23) Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice optometry.

183.2(24) Failure to report a change of name or address within 30 days after it occurs.

183.2(25) Representing oneself as an optometry practitioner when one's license has been suspended or revoked, or when one's license is on inactive status.

183.2(26) Permitting another person to use the licensee's license for any purposes.

183.2(27) Permitting an unlicensed employee or person under the licensee's control to perform activities requiring a license.

183.2(28) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but need not be limited to, the following:

a. Verbally or physically abusing a patient, client or coworker.

b. Improper sexual contact with, or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker.

c. Betrayal of a professional confidence.

d. Engaging in a professional conflict of interest.

183.2(29) Failure to comply with universal precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

183.2(30) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

[ARC 9641B, IAB 7/27/11, effective 8/31/11]

645—183.3(147,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period, the engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board, to be paid for by the licensee.
8. Impose civil penalties not to exceed \$1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—183.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care to the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—183.5(154) Order for mental, physical, or clinical competency examination or alcohol or drug screening. Rescinded IAB 11/5/08, effective 12/10/08.

These rules are intended to implement Iowa Code chapters 147, 154 and 272C.

[Filed 5/25/01, Notice 4/4/01—published 6/13/01, effective 7/18/01]

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PUBLIC SAFETY DEPARTMENT[661]

Rules transferred from agency number 680 to 661 to conform with the reorganization numbering scheme in general

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FLAMMABLE AND COMBUSTIBLE LIQUIDS

661—221.1(101) Scope. This chapter provides the rules of the fire marshal for safe transportation, storage, handling, and use of flammable and combustible liquids. IFC, 2006 edition, sections 102.1 and 102.2, is adopted by reference.

661—221.2(101) Definitions. The following definitions shall apply to rules 661—221.1(101) through 661—221.8(101). These definitions are adopted in addition to those which appear in the International Fire Code, 2006 edition; NFPA 30, Flammable and Combustible Liquids Code, 2003 edition; and NFPA 30A, Code for Motor Fuel Dispensing and Repair Garages, 2003 edition. If a definition adopted in this rule conflicts with a definition included in a code or standard adopted by reference in this chapter, the definition found in this rule shall apply.

“Approved by the fire marshal” means a laboratory which has requested and received recognition by the state fire marshal to test equipment whose use or installation is required by rules of the fire marshal, including rules in 661—Chapters 200 through 299, inclusive. A laboratory which seeks approval of the fire marshal shall contact the fire marshal division and shall provide information required by the fire marshal. Approval or disapproval shall be granted only by a letter from the fire marshal to the laboratory making the request, although advance notice of the decision of the fire marshal regarding whether or not approval is to be granted may be provided by electronic mail.

“Diesel fuel” means a liquid, other than gasoline, which is suitable for use as a fuel in a diesel fuel-powered engine and which meets the applicable standards established in Iowa Code section 214A.2 and rule 21—85.33(214A,208A). A blend of “diesel fuel” which meets these standards and contains 6 percent biodiesel or more is “biodiesel fuel.” Diesel fuel blends which meet these standards and contain less than 6 percent biodiesel are diesel fuel and not biodiesel fuel.

“Fire code official” means any employee of the fire marshal division of the department of public safety, of any local fire department, or of the department of natural resources if the employee is operating under an agreement between the department of public safety and the department of natural resources.

“ICC” means the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041.

“IFC” means the International Fire Code, published by the ICC. “IFC” will be followed by a year (e.g., IFC, 2006), which indicates the specific edition of the IFC to which reference is made.

“Independent testing laboratory” means a laboratory recognized by the federal Occupational Safety and Health Administration as a nationally recognized testing laboratory or a laboratory approved by the state fire marshal.

“Listed” means listed or approved by an independent testing laboratory for a specific use. A product shall be considered to be listed if it is of a model which has been listed for the use to which it is being put, whether it was manufactured prior to or after the date on which the listing became effective.

“Mobile air-conditioning system” means mechanical vapor compression equipment which is used to cool the driver or passenger compartment of any motor vehicle.

“NFPA” means the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269. References to the form “NFPA xx,” where “xx” is a number, refer to the NFPA standard or pamphlet of the corresponding number.

“SPCC plan” means a spill prevention, control and countermeasure plan, as defined in 40 CFR 112, published January 1, 2007.

“Under dispenser containment” or *“UDC”* means containment underneath a dispenser that will prevent leaks from the dispenser from reaching soil or groundwater.

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661—221.3(101) Flammable and combustible liquids. The International Fire Code, 2006 edition, published by the ICC, Chapter 34 and references contained therein, and NFPA 30, Flammable and Combustible Liquids Code, 2003 edition and references contained therein, are adopted by reference as

the rules for transportation, storage, handling, and use of flammable and combustible liquids. In any case in which a provision of the IFC conflicts with a provision of NFPA 30, the IFC provision shall apply. Any refinery shall comply with the provisions of this rule and with any applicable provisions of 661—Chapter 201.

221.3(1) The IFC, 2006 edition, is adopted with the following amendments:

a. In section 3402.1, amend the following definitions:

(1) Delete the definition of combustible liquid and insert in lieu thereof the following:

COMBUSTIBLE LIQUID. A liquid having a closed cup flash point at or above 100°F (38°C) and below 200°F (93°C). Combustible liquids shall be subdivided as follows:

Class II. Liquids having a closed cup flash point at or above 100°F (38°C) and below 140°F (60°C).

Class IIIA. Liquids having a closed cup flash point at or above 140°F (60°C) and below 200°F (93°C).

The category of combustible liquids does not include compressed gases or cryogenic fluids.

(2) Delete the definition of refinery and insert in lieu thereof the following:

REFINERY. A plant in which flammable or combustible liquids are produced on a commercial scale from crude petroleum, natural gasoline or other sources, or in which flammable or combustible liquids are used to produce on a commercial scale fuels intended for use in motor vehicles, whether or not those fuels are flammable or combustible liquids.

b. Delete section 3403.1 and insert in lieu thereof the following:

3403.1 Electrical. Electrical wiring and equipment shall be installed and maintained in accordance with NFPA 70, National Electrical Code, 2005 edition, published by NFPA.

c. Add the following new sections:

3403.6.12 Each connection to an aboveground tank through which liquid can normally flow shall be provided with an external control valve that is located as close as practical to the shell of the tank. In addition to the control valve or any other normal tank valves, there shall be an emergency internal check valve at each pipe connection to any tank opening below normal liquid level. The emergency internal check valve shall be effectively located inside the tank shell and shall be operable both manually and by an effective heat-activated device that, in case of fire, will automatically close the valve to prevent the flow of liquid from the tank even though the pipelines from the tank are broken.

3403.6.13 Any new or replacement piping connected to an aboveground storage tank shall be double-walled unless it lies entirely within the area of secondary containment.

3403.6.14 Any device dispensing Class I or Class II flammable liquids shall not be constructed or installed less than 100 feet from any existing dwelling unit.

d. Delete section 3404.2.8.12 and insert in lieu thereof the following:

3404.2.8.12 Liquid removal. Means shall be provided to recover liquid from the vault. Where a pump is used to meet this requirement, the pump shall not be permanently installed in the vault. Electric-powered portable pumps shall be suitable for use in Class I, Division 1 locations, as defined in NFPA 70, National Electrical Code, 2005 edition.

e. Delete section 3404.2.8.17 and insert in lieu thereof the following:

3404.2.8.17 Classified area. The interior of a vault containing a tank that stores a Class I liquid shall be designated a Class I, Division 1 location, as defined in NFPA 70, National Electrical Code, 2005 edition.

f. Delete section 3404.2.9.1.1, introductory paragraph, and insert in lieu thereof the following:

3404.2.9.1.1 Required foam fire protection systems. Foam fire protection shall be provided at any refinery and for aboveground tanks, other than pressure tanks operating at or above 1 pound per square inch gauge (psig) (6.89 kPa) when such tank, or group of tanks spaced less than 50 feet (15,240 mm) apart measured shell to shell, has a liquid surface area in excess of 1,500 square feet (139 m²), and is in accordance with any of the following:

g. Delete section 3404.2.9.1.2.1, introductory paragraph, and insert in lieu thereof the following:

3404.2.9.1.2.1 Where foam fire protection is required, it shall be provided in accordance with NFPA 11, 2005 edition, and shall be of a type or types and amount appropriate to suppress fires involving types and amounts of flammable and combustible liquids found on the premises. Where the flammable or combustible liquid contains more than 10 percent alcohol, the foam shall be alcohol-resistant.

Fire-fighting foam shall be stored separately from any area in which flammable and combustible liquids are stored and in an area or areas that will be readily accessible to fire fighters responding to a fire at the facility.

h. Amend the exception to section 3404.2.9.1.2.1 by adding the following new numbered paragraphs:

6. The premises is not a refinery.

7. The premises does not include bulk storage of flammable or combustible liquids.

8. The premises does not contain total storage capacity to store one million gallons or more of flammable or combustible liquids.

i. Delete section 3404.3.1.1 and insert in lieu thereof the following:

3404.3.1.1 Approved containers. Only approved containers and portable tanks shall be used. No flammable or combustible liquid shall be placed into, stored in, or carried in any container other than one which is metal or hard plastic. No flammable or combustible liquid shall be placed into, stored in, or carried in any temporary or disposable container.

221.3(2) Amend NFPA 30, section 4.3.2.3.3, by adding the following new paragraphs:

(10) Each secondary containment tank shall have top-only openings and shall be either a steel double-walled tank or a steel inner tank with an outer containment tank wall constructed in accordance with nationally accepted industry standards, such as those codified by the American Petroleum Institute, the Steel Tank Institute and the American Concrete Institute. Each tank shall be listed by an independent testing laboratory.

(11) Each fill opening in a secondary containment tank shall be provided with a spill container that will hold at least 5 gallons.

(12) For any secondary containment tank, interstitial tank space shall be monitored by an approved, continuous, automatic detection system that is capable of detecting liquids, including water. An automatic detection system may be either electronically or mechanically operated.

221.3(3) Plans and plan review fees.

a. The owner of any premises on which flammable or combustible liquids are or will be stored or used is required to submit construction plans to the fire marshal division, prior to commencing initial construction of the facility or prior to commencing any construction at an existing facility which includes the addition or replacement of an aboveground flammable or combustible liquid storage tank. The construction plans shall be sealed by a licensed professional engineer if the facility at which the construction will occur is or will be a refinery or if preparation of the plans by a licensed professional engineer is required by another provision of Iowa law.

Construction for which plans are required to be submitted for review shall not commence until approval of the plan has been received from the fire marshal.

EXCEPTION 1: Submission of construction plans is not required if the total flammable and combustible liquid storage capacity on the premises is or will be 1,100 gallons or less.

EXCEPTION 2: If an SPCC plan has been prepared pursuant to 40 CFR 112 for a facility other than a refinery, a copy of the SPCC plan may be submitted to the fire marshal in lieu of submission of separate construction plans, provided that the SPCC plan includes all of the elements required to be included in construction plans for the specific facility in this subrule. If the fire marshal agrees, copies of portions of the SPCC plan may be submitted in lieu of a copy of the complete plan provided that all elements of construction plans which are required for the specific facility by this subrule are included. If an SPCC plan or portions thereof are submitted to the fire marshal, the person making the submission shall provide any additional information required by the fire marshal to evaluate compliance with the provisions of this chapter and Iowa Code chapter 101. The copy of the SPCC plan or portions thereof submitted to the fire marshal shall clearly identify the licensed professional engineer who prepared the plan or shall be accompanied by a letter making this identification.

b. Minimum requirements for plans submitted for review include the following:

(1) Drawings shall show the name of the person, firm or corporation proposing the installation, the location, and the adjacent streets or highways.

(2) In the case of refineries or bulk plants, the drawings shall show, in addition to any applicable features required under subparagraphs (4) and (5), the plot of ground to be utilized and its immediate surroundings on all sides; and a complete layout of buildings, tanks, loading and unloading docks, and heating devices, if any.

(3) In the case of service stations, the drawings shall show, in addition to any applicable features required under subparagraphs (4), (5), and (6), the plot of ground to be utilized; the complete layout of buildings, drives, dispensing equipment, and greasing or washing stalls; and the type and location of any heating device.

(4) In the case of aboveground storage, the drawings shall show the location and capacity of each tank; dimensions of each tank whose capacity exceeds 50,000 gallons; the class of liquid to be stored in each tank; the type of tank supports; the clearances; the type of venting and pressure relief relied upon and the combined capacity of all venting and pressure relief valves on each tank; and the tank control valves and the location of pumps and other facilities by which liquid is filled into or withdrawn from the tanks.

(5) In the case of underground storage, the drawings shall show the location and capacity of each tank; the class of liquids to be stored; and the location of fill, gauge, vent pipes, openings and clearances.

(6) In the case of an installation for storage, handling or use of flammable or combustible liquids within buildings or enclosures at any establishment or occupancy covered in this chapter, the drawing shall be in detail sufficient to show whether applicable requirements are to be met.

c. Fees for plan reviews shall apply as follows:

(1) \$100 plus \$25 for each new or replacement tank included in the plan, for any site or facility at which flammable or combustible liquids are or will be stored, except for new construction of a refinery.

(2) \$500 for review of the initial construction plans of a refinery if the projected construction costs are \$100,000,000 or less and \$1,000 for the initial construction plans for a refinery if the projected construction costs are greater than \$100,000,000.

(3) The owner shall submit payment of plan review fees in the form of a check, money order, or warrant payable to Treasurer, State of Iowa.

d. Plan review fees shall be refunded to the submitter if the plan review has not been completed and the submitter has not been notified of approval or disapproval of the plans within 60 days of receipt of the complete plans by the fire marshal division.

221.3(4) Inspections.

a. Any facility at which flammable or combustible liquids are stored is subject to inspection by any fire code official during the regular business hours of the facility. If the facility does not operate under regular business hours, a fire official shall have access to the facility between 8 a.m. and 4 p.m. on any day which is a business day for the state of Iowa, within four hours of notifying the owner of intent to inspect the facility.

b. Any inspection of a facility pursuant to this subrule conducted by an employee of the fire marshal division of the department of public safety shall result in an inspection fee of \$100 plus \$25 for each aboveground flammable or combustible liquid storage tank, except that there shall be no fee for an initial inspection or the first reinspection after an initial inspection that is conducted pursuant to the receipt of a complaint alleging that the facility is in violation of any provision of this chapter, 661—Chapter 224 or Iowa Code chapter 101.

c. Inspections may be initiated by the inspecting official at random or on any other basis; may be conducted at the request of the owner, operator, or manager of a facility; or may be conducted to investigate allegations made in a complaint. Such a complaint shall be in writing and shall specify the location and nature of the alleged violations. The complainant may or may not be identified. Complainants who identify themselves may request to be notified of the outcome of the inspection conducted in response to the complaint.

661—221.4(101) Motor fuel dispensing facilities and repair garages. The International Fire Code, 2006 edition, published by the ICC, Chapter 22 and references contained therein, and NFPA 30A, Code for Motor Fuel Dispensing Facilities and Repair Garages, 2003 edition and references contained therein,

are adopted by reference as the rules for motor fuel dispensing facilities and repair garages. If any provision of the International Fire Code adopted herein is in conflict with any provision of NFPA 30A, the International Fire Code provision shall apply. The International Fire Code, 2006 edition, Chapter 22, is adopted with the following amendments:

221.4(1) Amend Table 2206.2.3 so that:

Each tank with a capacity of not more than 6,000 gallons for motor vehicle fuel dispensing systems and storing a Class I liquid, or with a capacity of not more than 12,000 gallons and storing a Class II or Class III liquid, that is located at a commercial, industrial, governmental, or manufacturing establishment, and that is intended for fueling vehicles used in connection with the establishment, is required to be located at least:

(a) 40 feet away from the nearest important building on the same property;

EXCEPTION: Tanks may be located closer than 40 feet to a building of noncombustible construction.

(b) 40 feet away from any property that is or may be built upon, including the opposite side of a public way;

EXCEPTION: No minimum separation shall be required for any tank that complies with NFPA 30A, section 4.3.2.6.

(c) 100 feet away from any residence or place of assembly.

221.4(2) Add the following new sections:

2206.7.1.1 Dispensing of blended biofuels.

2206.7.1.1.1 Definitions.

“B-blend” means biodiesel blended fuel as defined in Iowa Code section 214A.1 with the blend including between 6 and 20 percent biodiesel, as defined in Iowa Code section 214A.1.

NOTE: For purposes of the rules contained in this chapter and other chapters of rules of the state fire marshal (661—Chapters 200 through 299 inclusive), diesel fuel may contain biodiesel provided that the concentration of biodiesel is less than 6 percent in accordance with rule 21—85.33(214A,208A), which adopts by reference standards for the content of motor fuels established by ASTM International (formerly known as the American Society for Testing and Materials).

“E-10” means a blend of petroleum and ethanol including no more than 16 percent ethanol intended for use as a motor vehicle fuel.

“E-blend” means a blend of petroleum and ethanol including more than 16 percent ethanol intended for use as a motor vehicle fuel.

“Existing E-blend dispenser” means a dispenser installed on or before October 24, 2010, for use in dispensing E-blend.

2206.7.1.1.2 E-blend may be dispensed only if (1) or (2) applies:

(1) The dispenser is listed by an independent testing laboratory for use with E-blend or E-85.

(2) The dispenser is an existing E-blend dispenser and either (a) or (b) applies:

(a) The dispenser is listed by an independent testing laboratory as compatible with E-10 gasoline, and the owner or operator visually inspects the dispenser and the dispenser sump daily for leaks and equipment failure. The owner or operator shall maintain a record of such inspection for at least one year after the inspection. The record shall be located on the premises of the owner or operator and shall be made available to the department of natural resources or the state fire marshal upon request. If a leak is detected, the department of natural resources shall be notified pursuant to Iowa Code section 455B.386.

(b) The dispenser’s manufacturer has submitted the dispenser to an independent testing laboratory to be listed as compatible for use with E-85 gasoline, and the owner or operator has installed an under-dispenser containment system with electronic monitoring.

NOTE: Option (2) will not be available after August 25, 2014. On or after August 26, 2014, E-blend will be allowed to be dispensed only from dispensers listed by independent testing laboratories for use with E-blend or E-85.

2206.7.1.1.3 B-blend may be dispensed only if (1) and either (2), (3), (4), or (5) apply:

(1) Only a dispenser listed by an independent testing laboratory as compatible with diesel fuel shall be used to dispense B-blend.

(2) The owner or operator shall visually inspect the dispenser and the dispenser sump daily for leaks and equipment failure and maintain a record of such inspection for at least one year after the inspection. The record shall be located on the premises of the owner or operator and shall be made available to the department of natural resources or the state fire marshal upon request. If a leak is detected, the department of natural resources shall be notified pursuant to Iowa Code section 455B.386.

(3) The dispenser's manufacturer has submitted the dispenser to an independent testing laboratory to be listed as compatible for use with B-blend, and the owner or operator has installed an under-dispenser containment system with electronic monitoring.

(4) Information published or provided by the manufacturer of the dispenser is available stating that the dispenser is compatible with B-blend.

(5) The owner or operator of the dispenser has in force insurance for environmental liability in a minimum amount of \$500,000, which would cover damage resulting from the operation of the dispenser and the owner or operator is able to produce documentation of the insurance coverage upon request from the state fire marshal or the department of natural resources.

NOTE: If option (2), (4), or (5) is used, under-dispenser containment shall be provided if otherwise required by the rules in this chapter, rules of the department of natural resources, or any other applicable provision of law.

This subrule is intended to implement Iowa Code sections 101.1 and 455G.31.

221.4(3) Add the following new section:

2206.7.10 Under dispenser containment (UDC). When installing a new motor fuel dispenser or replacing a motor fuel dispenser, UDC shall be installed whenever any of the following occurs:

(1) UDC is required by a rule adopted by the environmental protection commission.

NOTE: See 567—subrule 135.3(9), paragraph “h.”

(2) A motor fuel dispenser is installed at a location where there previously was no dispenser; or

(3) An existing motor fuel dispenser is removed and replaced with another dispenser. UDC is not required when only the emergency shutoff, shear valves or check valves are replaced.

UDC shall:

- Be intact and liquid tight on its sides and bottom and at any penetrations;
- Be compatible with the substance conveyed by the piping; and
- Allow for visual inspection and monitoring and access to the components in the containment system.

EXCEPTION: UDC shall not be required for a dispenser which sits directly upon a solid concrete apron.

221.4(4) Temporary storage in disaster emergencies. Notwithstanding any provision to the contrary found in this chapter or found in the International Fire Code or NFPA 30A as adopted by reference herein, aboveground petroleum storage tanks may be used to store flammable and combustible liquids in motor fuel dispensing operations, provided that all of the following apply:

a. The facility is in an area covered by a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6 or, if not in such an area, the facility has applied to the fire marshal and has been approved for storage of flammable and combustible liquids in compliance with this subrule.

b. The facility has suffered damage which has rendered the storage tanks normally used by the facility for flammable and combustible liquids inoperable. Storage of flammable and combustible liquids in compliance with this subrule shall continue only for as long as the normal storage tanks are inoperable and in no event for more than 90 days.

EXCEPTION: In extraordinary circumstances, storage of flammable and combustible liquids in compliance with this subrule may continue for more than 90 days if the facility has sought and received specific written approval from the fire marshal for such storage.

c. The facility has written confirmation from the facility's insurance provider that insurance coverage will apply while storage of flammable and combustible liquids in compliance with this subrule is occurring.

d. Any aboveground petroleum storage tank used pursuant to this subrule shall be rated or listed by an independent testing laboratory for aboveground storage of flammable and combustible liquids.

e. Any aboveground petroleum storage tank used pursuant to this subrule shall be of no more than 1,000 gallons capacity.

EXEPTION: A storage tank larger than 1,000 gallons capacity may be used pursuant to this subrule if the facility has received specific written approval from the fire marshal for its use. In reviewing such a request, the fire marshal shall consider, but is not limited to considering, the following factors:

(1) Volume of throughput of the facility.

(2) Ability to meet setback requirements appropriate to the size of the tanks used.

f. All electrical service proximate to the storage area shall comply with applicable provisions of NFPA 70, National Electrical Code, 2005 edition. An emergency shutoff control or electrical disconnect shall be installed no less than 20 feet nor more than 100 feet from any fuel-dispensing device at the facility. The control shall be clearly marked "Emergency Shutoff."

g. A 20-pound fire extinguisher with a minimum B:C rating of 40 shall be located no more than 50 feet from the location of any storage tank being used in compliance with this subrule.

h. Precautions shall be taken to prevent the ignition of flammable or combustible liquids, including the conspicuous posting of warning signs saying "NO SMOKING" and "NO OPEN FLAME."

i. Aboveground petroleum storage tanks used pursuant to this subrule shall be plumbed into existing dispensers, if practical. If this is impractical, all fueling at the facility shall be by attendant only; no self-service dispensing shall be allowed at the facility.

j. Any aboveground petroleum storage tank used in compliance with this subrule shall be located so as to be protected from prospective damage from vehicle collisions and shall be located with due regard to vehicular traffic patterns and the location of property lines and significant buildings, particularly those which are frequently occupied by humans.

[ARC 7977B, IAB 7/29/09, effective 7/2/09; ARC 8114B, IAB 9/9/09, effective 9/1/09; ARC 9283B, IAB 12/15/10, effective 12/1/10; ARC 9620B, IAB 7/27/11, effective 9/1/11]

661—221.5(101) Aircraft fueling. The International Fire Code, 2006 edition, published by the ICC, sections 1106 through 1106.21.1 and references contained therein, and NFPA 407, Standard for Aircraft Fuel Servicing, 2007 edition and references contained therein, are adopted by reference as the rules for aircraft fueling facilities. If any provision of the IFC adopted herein conflicts with any provision of NFPA 407, 2007 edition, the IFC provision shall apply.

661—221.6(101) Helicopter fueling. The International Fire Code, 2006 edition, published by the ICC, sections 1107 through 1107.8 and references contained therein, is adopted by reference as the rules for helicopter fueling facilities.

661—221.7(101) Fuel-fired appliances. The International Fire Code, 2006 edition, published by the ICC, sections 603 through 603.9 and references contained therein, is adopted by reference as the rules for fuel-fired appliances, except for LP-gas fired appliances, which are subject to the provisions of 661—Chapter 226.

661—221.8(101) Stationary combustion engines and gas turbines. The International Fire Code, 2006 edition, Chapter 6 and references contained therein, and NFPA 37, "Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines," 2006 edition, are adopted by reference as the rules governing the installation and use of stationary combustion engines and gas turbines. If any provision of the IFC, 2006 edition, Chapter 6, adopted herein is in conflict with any provision of NFPA 37, 2006 edition, the provision of the IFC shall apply.

These rules are intended to implement Iowa Code chapter 101.

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[Filed Emergency ARC 8114B, IAB 9/9/09, effective 9/1/09]

[Filed Emergency ARC 9283B, IAB 12/15/10, effective 12/1/10]

[Filed ARC 9620B (Notice ARC 9289B, IAB 12/15/10), IAB 7/27/11, effective 9/1/11]

CHAPTER 301
STATE BUILDING CODE—GENERAL PROVISIONS
[Prior to 12/21/05, see rules 661—16.1(103A) to 661—16.500(103A)]

661—301.1(103A) Scope and applicability. The provisions of this chapter apply generally to:

1. Buildings and facilities owned by the state of Iowa;
2. The initial construction of any building or facility not wholly owned by the state of Iowa or any department or agency of the state of Iowa which is financed in whole or in part with funds appropriated by the state, if there is no local building code in effect in the jurisdiction in which the construction is located or if there is a local building code in effect in the jurisdiction, and the local building code is not enforced through a system of plan reviews and inspections;
3. Buildings and facilities subject to the state building code, pursuant to a provision of state or federal law other than Iowa Code chapter 103A; and
4. Buildings and facilities in local jurisdictions which have adopted the state building code by local ordinance in accordance with the provisions of Iowa Code section 103A.12.

661—301.2(103A) Definitions. The following definitions apply to 661—Chapters 300, 301, 302, and 303.

“Appropriated by the state of Iowa” means funds which are included in a bill enacted by the Iowa general assembly and signed by the governor or which are appropriated in a provision of the Iowa Code.

“Board of appeals” means the local board of appeals as created by local ordinance.

“Board of review” or *“board”* means the state building code board of review created by Iowa Code section 103A.15. The three members of the board of review are appointed by the building code commissioner from among the membership of the building code advisory council.

“Building” means a combination of materials, whether portable or fixed, to form a structure affording facilities or shelter for persons, animals or property. The word “building” includes any part of a building unless the context clearly requires a different meaning. This definition does not apply to 661—Chapter 302.

“Building code advisory council” or *“council”* means the seven-member council appointed by the governor, pursuant to Iowa Code section 103A.14, to advise and confer with the commissioner on matters relating to the state building code and to approve provisions of the state building code adopted by the commissioner.

“Building component” means any part, subsystem, subassembly, or other system designed for use in, or as a part of, a structure, including but not limited to: structural, electrical, mechanical, fire protection, or plumbing systems, and including such variations thereof as are specifically permitted by regulation, and which variations are submitted as part of the building system or amendment thereof.

“Building department” means an agency of any governmental subdivision charged with the administration, supervision, or enforcement of building regulations, prescribed or required by state or local building regulations.

“Building system” means plans, specifications and documentation for a system of manufactured factory-built structures or buildings or for a type or a system of building components, including but not limited to: structural, electrical, mechanical, fire protection, or plumbing systems, and including such variations thereof as are specifically permitted by regulation, and which variations are submitted as part of the building system or amendment thereof.

“Bureau” means the building code bureau of the fire marshal division of the department of public safety.

“Commissioner” means the state building code commissioner appointed by the commissioner of public safety pursuant to Iowa Code section 103A.4.

“Construction” means the construction, erection, reconstruction, alteration, conversion, repair, equipping of buildings, structures or facilities, and requirements or standards relating to or affecting materials used in connection therewith, including provisions for safety and sanitary conditions.

“Construction cost” means the total cost of the work to the owner of all elements of the project designed or specified by the design professional including the cost at current market rates of labor and materials furnished by the owner and equipment designed, specified or specifically provided by the design professional. Construction costs shall include the costs of management or supervision of construction or installation provided by a separate construction manager or contractor, plus a reasonable allowance for each construction manager’s or contractor’s overhead and profit.

“Division” means the fire marshal division of the department of public safety.

“Enforcement authority” means any state agency or political subdivision of the state that has the authority to enforce the state building code.

“Equipment” means plumbing, heating, electrical, ventilating, conditioning, refrigeration equipment, and other mechanical facilities or installations.

“Governmental subdivision” means any state, city, town, county or combination thereof.

“Label” means an approved device affixed to a factory- built structure or building, or building component, by an approved agency, evidencing code compliance.

“Listing agency” means an agency approved by the commissioner which is in the business of listing or labeling and which maintains a periodic inspection program on current production of listed models, and which makes available timely reports of such listing including specific information verifying that the product has been tested to approved standards and found acceptable for use in a specified manner.

“Responsible design professional” means a registered architect or licensed professional engineer who stamps and signs the documents submitted, pursuant to Iowa Code chapters 542B and 544A.

“State fire code” means administrative rules adopted by the state fire marshal, pursuant to Iowa Code section 100.1, subsection 5.

“State plumbing code” means the state plumbing code adopted by the state plumbing and mechanical systems board, pursuant to Iowa Code chapter 105.

NOTE: As of January 1, 2007, the state plumbing code is found in 641—Chapter 25.

“Structure” means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner except transmission and distribution equipment of public utilities. “Structure” includes any part of a structure unless the context clearly requires a different meaning.

[ARC 8305B, IAB 11/18/09, effective 1/1/10]

661—301.3(103A) General provisions. The provisions of the International Building Code, 2009 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, are hereby adopted by reference as the general requirements for building construction, with the following amendments:

Delete section 101.1.

Delete section 101.2 and insert in lieu thereof the following new section:

101.2 Scope. The provisions of this code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

Exception: Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories above grade plane in height with a separate means of egress and their accessory structures shall comply with the International Residential Code, as amended by rule 661—301.8(103A).

Delete section 101.4 and sections therein.

Delete section 102.6 and insert in lieu thereof the following new section:

102.6 Existing Structures. The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as specifically covered in this code or the state fire code, or as deemed necessary by the building code commissioner for the general safety and welfare of the occupants and the public.

Delete sections 103, 104, 105 and sections therein.

Delete section 106.2.

Delete section 107.1 and insert in lieu thereof the following new section:

107.1 General. Submittal documents consisting of construction documents, statement of special inspections, a geotechnical report and other data shall be submitted in one or more sets with each plan review application. The construction documents shall be prepared by a responsible design professional where required by the statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the commissioner is authorized to require additional construction documents to be prepared by a responsible design professional.

Exception: The commissioner is authorized to waive the submission of construction documents and other data not required to be prepared by a responsible design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this code.

Delete sections 107.3, 107.4, and 107.5 and sections therein.

Delete sections 109, 110, 111, 112, 113, 114, 115, and 116 and sections therein.

Delete section 906.1 and insert in lieu thereof the following new section:

906.1 Where required. Portable fire extinguishers shall be installed in the following locations:

1. In new and existing Group A, B, E, F, H, I, M, R-1, R-2, R-4 and S occupancies.
2. Within 30 feet (9144 mm) of commercial cooking equipment.
3. In areas where flammable or combustible liquids are stored, used or dispensed.
4. On each floor of structures under construction, except Group R-3 occupancies, in accordance with Section 1415.1 of the International Fire Code.
5. Where required by the sections indicated in Table 906.1.
6. Special-hazard areas, including but not limited to laboratories, computer rooms and generator rooms, where required by the fire code official.

Delete section 907.2.2 and insert in lieu thereof the following new section:

907.2.2 Group B. A manual fire alarm system shall be installed in Group B occupancies where one of the following conditions exists:

1. The combined Group B occupant load of all floors is 500 or more.
2. The Group B occupant load is more than 100 persons above or below the lowest level of exit discharge.
3. The Group B fire area contains a Group B ambulatory health care facility.
4. The Group B fire area contains an educational occupancy for students above the twelfth grade with an occupant load of 50 or more persons.

Exception: Manual fire alarm boxes are not required where the building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 and the occupant notification appliances will activate throughout the notification zones upon sprinkler water flow.

Delete section 907.2.3 and insert in lieu thereof the following new section:

907.2.3 Group E. In the absence of a complete automatic sprinkler system, a complete automatic detection system shall be installed throughout the entire Group E occupancy. A Group E occupancy with a complete automatic sprinkler system shall be provided with a fire alarm system with a minimum of corridor smoke detection, at a maximum spacing of 30 feet on center, and heat or smoke detection in any hazardous or nonoccupied areas. When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system.

Exceptions:

1. Group E occupancies with an occupant load of less than 50.
2. Manual fire alarm boxes are not required in Group E occupancies where all of the following apply:
 - 2.1. Interior corridors are protected by smoke detectors with alarm verification.
 - 2.2. Auditoriums, cafeterias, gymnasiums and the like are protected by heat detectors or other approved detection devices.
 - 2.3. Shops and laboratories involving dusts or vapors are protected by heat detectors or other approved detection devices.
 - 2.4. Off-premises monitoring is provided.

2.5. The capability to activate the evacuation signal from a central point is provided.

2.6. In buildings where normally occupied spaces are provided with a two-way communication system between such spaces and a constantly attended receiving station from which a general evacuation alarm can be sounded, except in locations specifically designated by the fire code official.

3. Manual fire alarm boxes shall not be required in Group E occupancies where the building is equipped throughout with an approved automatic sprinkler system, the notification appliances will activate on sprinkler water flow and manual activation is provided from a normally occupied location.

Add the following new section 1003.8:

1003.8 Location of Preschool through Second Grade Students. In Group E occupancies, rooms normally occupied by preschool, kindergarten or first grade students shall not be located above or below the level of exit discharge. Rooms normally occupied by second grade students shall not be located more than one story above the level of exit discharge.

Add the following new section 1100:

1100. Any building or facility which is in compliance with the applicable requirements of 661—Chapter 302 shall be deemed to be in compliance with any applicable requirements contained in the International Building Code concerning accessibility for persons with disabilities.

Delete chapter 29.

Amend section 3001.2 by adding the following new unnumbered paragraph after the introductory paragraph:

Notwithstanding the references in Chapter 35 to editions of national standards adopted in this section, any editions of these standards adopted by the elevator safety board in 875—Chapter 72 are hereby adopted by reference. If a standard is adopted by reference in this section and there is no adoption by reference of the same standard in 875—Chapter 72, the adoption by reference in this section is of the edition identified in Chapter 35.

Amend section 3401.3 by deleting “International Private Sewage Disposal Code” and inserting in lieu thereof “567 Iowa Administrative Code Chapter 69.”

Delete appendices A through K.

Delete all references to the “International Plumbing Code” and insert in lieu thereof “state plumbing code.”

Delete all references to the “ICC Electrical Code” and insert in lieu thereof “National Electrical Code, 2008 edition as amended by rule 661—301.5(103A).”

Delete all references to the “International Fuel Gas Code” and insert in lieu thereof “rule 661—301.9(103A).”

301.3(1) Hospitals and health care facilities.

a. A hospital, as defined in rule 661—205.1(100), that is required to meet the provisions of the state building code shall be deemed to be in compliance with the fire safety requirements of the state building code if the hospital is in compliance with the provisions of rule 661—205.5(100). In any other case in which an applicable requirement of the Life Safety Code, 2000 edition, is inconsistent with an applicable requirement of the state building code, the hospital shall be deemed to be in compliance with the state building code requirement if the Life Safety Code requirement is met.

b. A nursing facility or hospice, as defined in rule 661—205.1(100), that is required to meet the provisions of the state building code shall be deemed to be in compliance with the fire safety requirements of the state building code if the nursing facility or hospice is in compliance with the provisions of rule 661—205.10(100). In any other case in which an applicable requirement of the Life Safety Code, 2000 edition, is inconsistent with an applicable requirement of the state building code, the nursing facility or hospice shall be deemed to be in compliance with the state building code requirement if the Life Safety Code requirement is met.

c. An intermediate care facility for the mentally retarded, as defined in rule 661—205.1(100), or intermediate care facility for persons with mental illness that is required to meet the provisions of the state building code shall be deemed to be in compliance with the fire safety requirements of the state building code if the intermediate care facility is in compliance with the provisions of rule 661—205.15(100). In any other case in which an applicable requirement of the Life Safety Code, 2000 edition, is inconsistent

with an applicable requirement of the state building code, the intermediate care facility shall be deemed to be in compliance with the state building code requirement if the Life Safety Code requirement is met.

d. An ambulatory health care facility, as defined in rule 661—205.1(100), that is required to meet the provisions of the state building code shall be deemed to be in compliance with the fire safety requirements of the state building code if the ambulatory health care facility is in compliance with the provisions of rule 661—205.20(100). In any other case in which an applicable requirement of the Life Safety Code, 2000 edition, is inconsistent with an applicable requirement of the state building code, the ambulatory health care facility shall be deemed to be in compliance with the state building code requirement if the Life Safety Code requirement is met.

e. A religious nonmedical health care institution that is required to meet the provisions of the state building code shall be deemed to be in compliance with the provisions of the state building code if the institution is in compliance with the provisions of rule 661—205.25(100). In any other case in which an applicable requirement of the Life Safety Code, 2000 edition, is inconsistent with an applicable requirement of the state building code, the religious nonmedical health care institution shall be deemed to be in compliance with the state building code requirement if the Life Safety Code requirement is met.

301.3(2) Reserved.

[ARC 8305B, IAB 11/18/09, effective 1/1/10]

661—301.4(103A) Mechanical requirements. The provisions of the International Mechanical Code, 2009 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, are hereby adopted by reference as the requirements for the design, installation, maintenance, alteration, and inspection of mechanical systems that are permanently installed and utilized to provide control of environmental conditions and related processes within buildings, with the following amendments:

Delete section 101.1.

Delete sections 103, 104, 105, 106, 107, 108, 109, and 110 and sections therein.

Delete section 403 and insert in lieu thereof the following new section:

SECTION 403

MECHANICAL VENTILATION

Mechanical ventilation systems shall be designed in accordance with the provisions of ASHRAE Standard 62.1-2007, “Ventilation for Acceptable Indoor Air Quality,” published by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, 1791 Tullie Circle, N.E., Atlanta, GA 30329.

Delete appendices A and B.

Delete all references to the “International Plumbing Code” and insert in lieu thereof “state plumbing code.”

Delete all references to the “ICC Electrical Code” and insert in lieu thereof “National Electrical Code, 2008 edition, as amended by rule 661—301.5(103A).”

Delete all references to the “International Fuel Gas Code” and insert in lieu thereof “rule 661—301.9(103A).”

[ARC 8305B, IAB 11/18/09, effective 1/1/10]

661—301.5(103A) Electrical requirements. The provisions of the National Electrical Code, 2008 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169-7471, are hereby adopted by reference as the requirements for electrical installations, with the following amendment:

Delete section 210.8, paragraph (A) and insert in lieu thereof the following new paragraph:

(A) Dwelling Units. All 125-volt, single-phase, 15- and 20-ampere receptacles installed in the locations specified in (1) through (8) shall have ground-fault circuit-interrupter protection for personnel.

(1) Bathrooms.

(2) Garages, and also accessory buildings that have a floor located at or below grade level not intended as habitable rooms and limited to storage areas, work areas, and areas of similar use.

Exception No. 1 to (2): Receptacles that are not readily accessible.

Exception No. 2 to (2): A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that, in normal use, is not easily moved from one place to another and that is cord-and-plug connected in accordance with 400.7(A)(6), (A)(7), or (A)(8).

Receptacles installed under the exceptions to 210.8(A)(2) shall not be considered as meeting the requirements of 210.52(G).

(3) Outdoors.

Exception to (3): Receptacles that are not readily accessible and are supplied by a dedicated branch circuit for electric snow-melting or deicing equipment shall be permitted to be installed in accordance with 426.28.

(4) Crawl spaces—at or below grade level.

(5) Unfinished basements—for purposes of this section, unfinished basements are defined as portions or areas of the basement not intended as habitable rooms and limited to storage areas, work areas, and the like.

Exception No. 1 to (5): Receptacles that are not readily accessible.

Exception No. 2 to (5): A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that, in normal use, is not easily moved from one place to another and that is cord-and-plug connected in accordance with 400.7(A)(6), (A)(7), or (A)(8).

Exception No. 3 to (5): A receptacle supplying only a permanently installed fire alarm or burglar alarm system shall not be required to have ground-fault circuit-interrupter protection.

Receptacles installed under the exceptions to 210.8(A)(5) shall not be considered as meeting the requirements of 210.52(G).

(6) Kitchens—where the receptacles are installed to serve the countertop surfaces.

(7) Laundry, utility, and wet bar sinks—where the receptacles are installed within 1.8 m (6 ft) of the outside edge of the sink.

(8) Boathouses.

661—301.6(103A) Plumbing requirements. Provisions of the state plumbing code, 641—Chapter 25, adopted by the state plumbing and mechanical systems board pursuant to Iowa Code chapter 105, apply to plumbing installations in this state.

EXCEPTION: Factory-built structures, as referenced by Iowa Code section 103A.10(3), that contain plumbing installations are allowed to comply with either the state plumbing code or with International Plumbing Code, 2009 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041. The manufacturer's data plate must indicate which plumbing code was utilized for compliance with this rule, as required by 661—paragraph 16.610(15) "e."

Private sewage disposal systems shall comply with 567—Chapter 69.

301.6(1) Rescinded IAB 7/27/11, effective 7/8/11.

301.6(2) Fuel gas piping shall comply with the requirements established in rule 661—301.9(103A). [ARC 8305B, IAB 11/18/09, effective 1/1/10; ARC 9627B, IAB 7/27/11, effective 7/8/11]

661—301.7(103A) Existing buildings.

301.7(1) Definition. "Existing building" means a building erected prior to January 1, 2010.

301.7(2) Adoption. The provisions of the International Existing Building Code, 2009 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, are hereby adopted by reference as the requirements for repair, alteration, change of occupancy, addition, and relocation of existing buildings, with the following amendments:

Delete section 101.1.

Delete section 101.4.2 and insert in lieu thereof the following new section:

101.4.2 Buildings Previously Occupied. The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as specifically covered in this code or the state fire code, or as deemed necessary by the building code commissioner for the general safety and welfare of the occupants and the public.

Delete section 101.5.4.

Delete section 101.5.4.1.

Delete section 101.5.4.2.

Delete section 101.7.

Delete sections 103, 104, and 105 and sections therein.

Delete sections 106.1, 106.3.1, 106.3.3, 106.5, and 106.6.

Delete sections 108, 109, 110, 112, 113, 114, 115, 116 and 117 and sections therein.

Delete section 605.

Delete section 706.

Delete section 806.

Delete section 912.8.

Delete chapters A1 through A5.

Delete appendix B and insert in lieu thereof the following new section:

Any building or facility subject to this rule shall comply with the provisions of 661—Chapter 302.

Delete resource A.

Delete all references to the “International Plumbing Code” and insert in lieu thereof “state plumbing code.”

Delete all references to the “ICC Electrical Code” and insert in lieu thereof “National Electrical Code, 2008 edition, as amended by rule 661—301.5(103A).”

Delete all references to the “International Fuel Gas Code” and insert in lieu thereof “rule 661—301.9(103A).”

[ARC 8305B, IAB 11/18/09, effective 1/1/10]

661—301.8(103A) Residential construction requirements. The provisions of the International Residential Code, 2009 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, are hereby adopted by reference as the requirements for construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal, and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with a separate means of egress and their accessory structures, with the following amendments:

Delete section R101.1.

Delete sections R103 to R114 and sections therein.

NOTE: The values for table R301.2(1) shall be determined by the location of the project and referenced footnotes from table R301.2(1).

Delete chapter 11.

Delete all references to the “International Plumbing Code” and insert in lieu thereof “state plumbing code.”

Delete section R310.1 and insert in lieu thereof the following new section:

R310.1 Emergency escape and rescue required. Basements and every sleeping room shall have at least one operable emergency and rescue opening. Such opening shall open directly into a public street, public alley, yard or court. Where basements contain one or more sleeping rooms, emergency egress and rescue openings shall be required in each sleeping room, but shall not be required in adjoining areas of the basement. Where emergency escape and rescue openings are provided they shall have a sill height of not more than 44 inches (1118 mm) above an adjacent permanent interior standing surface. The adjacent permanent interior standing surface shall be no less than 36 inches wide and 18 inches deep and no more than 24 inches high. Where a door opening having a threshold below the adjacent ground elevation serves as an emergency escape and rescue opening and is provided with a bulkhead enclosure, the bulkhead enclosure shall comply with section R310.3. The net clear opening dimensions required by this section shall be obtained by the normal operation of the emergency escape and rescue opening from the inside. Emergency escape and rescue openings with a finished sill height below the adjacent ground elevation shall be provided with a window well in accordance with section R310.2. Emergency escape and rescue openings shall open directly into a public way, or to a yard or court that opens to a public way.

EXCEPTION: Basements used only to house mechanical equipment and not exceeding total floor area of 200 square feet (18.58 m²).

Delete section R313.1.

NOTE: Deletion of section R313.1, which would have required the installation of sprinklers in newly constructed townhouses, is consistent with 2010 Iowa Acts, Senate Joint Resolution 2009.

Delete section R313.2.

NOTE: Deletion of section R313.2, which would have required the installation of sprinklers in newly constructed one- and two-family residences, is consistent with 2010 Iowa Acts, Senate Joint Resolution 2009.

Amend section R322.1.7 by striking the words “Chapter 3 of the International Private Sewage Disposal Code” and inserting in lieu thereof “567 Iowa Administrative Code Chapter 69.”

Delete section R907.3 and insert in lieu thereof the following new section:

R907.3 Recovering versus replacement. New roof coverings shall not be installed without first removing all existing layers of roof coverings where any of the following conditions exist:

1. Where the existing roof or roof covering is water-soaked or has deteriorated to the point that the existing roof or roof covering is not adequate as a base for additional roofing.

2. Where the existing roof covering is wood shake, slate, clay, cement or asbestos cement tile.

3. Where the existing roof has two or more applications of any type of roof covering.

Delete chapter 24 and sections therein and insert in lieu thereof the following new section:

All fuel gas piping installations shall comply with rule 661—301.9(103A).

Delete chapters 25 to 33 and sections therein, except for section P2904, and insert in lieu thereof the following new section:

All plumbing installations shall comply with the state plumbing code as adopted by the state plumbing and mechanical systems board pursuant to Iowa Code chapter 105.

EXCEPTION: Factory-built structures, as referenced by Iowa Code section 103A.10(3), that contain plumbing installations are allowed to comply with either the state plumbing code or with the International Plumbing Code, 2009 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041. The manufacturer’s data plate must indicate which plumbing code was utilized for compliance with this rule, as required by 661—paragraph 16.610(15) “e.”

Delete chapters 34 to 43 and sections therein and insert in lieu thereof the following new section:

All electrical installations shall comply with National Electrical Code, 2008 edition, as amended by rule 661—301.5(103A).

Delete appendices A through Q.

[ARC 8305B, IAB 11/18/09, effective 1/1/10 (See Delay note at end of chapter); ARC 8771B, IAB 5/19/10, effective 5/1/10]

661—301.9(103A) Fuel gas piping requirements. Fuel gas piping shall comply with the requirements of 661—Chapter 221. Liquefied petroleum gas facilities and appliances shall comply with rule 661—226.1(101).

[ARC 8305B, IAB 11/18/09, effective 1/1/10]

661—301.10(103A) Transition period. A construction project that is subject to the provisions of any rule in 661—Chapter 301 or 661—Chapter 303 which requires compliance with provisions of the 2009 edition of any code published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, may comply with the requirements established either in the edition of the code adopted herein or the requirements established in the edition of the same code previously in effect if the project is commenced no later than March 31, 2010. “Commenced” shall mean that the submitter has obtained preliminary approval from the commissioner or a local building department pursuant to rule 661—300.6(103A) prior to April 1, 2010. If final approval for the project design has not been obtained prior to October 1, 2010, the project is subject to the provisions of 661—Chapters 301 and 303 in effect as of January 1, 2010.

[ARC 8305B, IAB 11/18/09, effective 1/1/10]

These rules are intended to implement Iowa Code chapter 103A.

[Filed 12/2/05, Notice 9/14/05—published 12/21/05, effective 4/1/06]

[Filed 11/2/06, Notice 9/27/06—published 11/22/06, effective 1/1/07]

[Filed 10/31/07, Notice 9/12/07—published 11/21/07, effective 1/1/08]

[Filed 10/29/08, Notice 9/24/08—published 11/19/08, effective 1/1/09]

[Filed ARC 8305B (Notice ARC 8179B, IAB 9/23/09), IAB 11/18/09, effective 1/1/10]¹

[Editorial change: IAC Supplement 12/30/09]

[Filed Emergency ARC 8771B, IAB 5/19/10, effective 5/1/10]

[Filed Emergency ARC 9627B, IAB 7/27/11, effective 7/8/11]

¹ January 1, 2010, effective date of the portions of 661—301.8(103A) pertaining to Sections R313.1 and R313.2 delayed until the adjournment of the 2010 Session of the General Assembly by the Administrative Rules Review Committee at its meeting held December 8, 2009.

CHAPTER 500
ELECTRICIAN AND ELECTRICAL CONTRACTOR LICENSING PROGRAM—
ORGANIZATION AND ADMINISTRATION

661—500.1(103) Establishment of program. The electrician and electrical contractor licensing program is established in the fire marshal division of the department of public safety. The program is under the direction of the electrical examining board and the daily supervision of the state fire marshal or the state fire marshal's designee.

500.1(1) *Electrical examining board.* The electrical examining board, appointed by the governor, directs the electrician and electrical contractor licensing program, adopts administrative rules governing the program, establishes licensing requirements, and administers discipline related to licensure and to those engaged in activities requiring licensure but who are not licensed.

500.1(2) *Executive secretary.* The electrical examining board shall appoint an executive secretary who shall be responsible for carrying out the policies of the board and for hiring and supervising additional administrative staff.

500.1(3) *Board office.* The board office is located within the fire marshal division of the department of public safety.

a. The address of the board office is as follows:

Electrical Examining Board
Iowa Department of Public Safety
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319

b. The board may be contacted by telephone through the fire marshal division at (515)725-6145 or by E-mail at elecinfo@dps.state.ia.us.

[Editorial change: IAC Supplement 6/17/09; **ARC 8396B**, IAB 12/16/09, effective 2/1/10]

661—500.2(103) Definitions. The following definitions apply to all rules adopted by the electrical examining board.

"Approved by the board" means the approval of any item, test or procedure by the electrical examining board by adoption of a resolution at a meeting of the board, provided that the approval has not been withdrawn by a later resolution of the board. A list of any such items, tests, or procedures that have been approved by the board is available from the board office or from the board Web site.

"Board" means the electrical examining board created under 2007 Iowa Acts, chapter 197, section 12.

"Department" means the department of public safety.

"Division" means the fire marshal division of the department of public safety.

"Documented experience" means experience which an applicant for licensing has completed and which has been documented by the applicant's completion and submission of a sworn affidavit or other evidence required by the board.

"Emergency installation" means an electrical installation necessary to restore power to a building or facility when existing equipment has been damaged due to a natural or man-made disaster or other weather-related cause. Emergency installations may be performed by persons properly licensed to perform the work, and may be performed prior to submission of a request for permit or request for inspection. A request for permit and request for inspection, if required by rule 661—552.1(103), shall be made as soon as practicable and, in any event, no more than 72 hours after the installation is completed.

"Executive secretary" means the executive secretary appointed by the board.

"Farm" means land, buildings and structures used for agricultural purposes including but not limited to the storage, handling, and drying of grain and the care, feeding, and housing of livestock.

"Final agency action" means the issuance, denial, suspension, or revocation of a license. If an action is subject to appeal, "final agency action" has occurred when the administrative appeal process provided for in 661—Chapter 503 has been exhausted or when the deadline for filing an appeal has expired.

“Registered apprenticeship program” means an electrical apprenticeship program registered with the Bureau of Apprenticeship and Training of the United States Department of Labor or an electrical apprenticeship program registered with a state agency whose registration program is accepted by the Bureau of Apprenticeship and Training in lieu of direct registration with the Bureau of Apprenticeship and Training.

“Residential electrical work” means electrical work in a residence in which there are no more than four living units within the same building and includes work to connect and work within accessory structures, which are structures no greater than 3,000 square feet in floor area, not more than two stories in height, the use of which is incidental to the use of the dwelling unit or units, and located on the same lot as the dwelling unit or units.

“Routine maintenance” means the repair or replacement of existing electrical apparatus or equipment of the same size and type for which no changes in wiring are made. The performance of routine maintenance in itself does not require a person to obtain or hold a license as an electrician or electrical contractor.

[**ARC 8396B**, IAB 12/16/09, effective 2/1/10; **ARC 9234B**, IAB 11/17/10, effective 1/1/11; **ARC 9626B**, IAB 7/27/11, effective 9/1/11]

These rules are intended to implement 2007 Iowa Acts, chapter 197.

[Filed emergency 12/17/07—published 1/16/08, effective 1/1/08]

[Editorial change: IAC Supplement 6/17/09]

[Filed ARC 8396B (Notice ARC 8160B, IAB 9/23/09), IAB 12/16/09, effective 2/1/10]

[Filed ARC 9234B (Notice ARC 9099B, IAB 9/22/10), IAB 11/17/10, effective 1/1/11]

[Filed ARC 9626B (Notice ARC 9515B, IAB 5/18/11), IAB 7/27/11, effective 9/1/11]

CHAPTER 502
ELECTRICIAN AND ELECTRICAL CONTRACTOR LICENSING PROGRAM—LICENSING
REQUIREMENTS, PROCEDURES, AND FEES

661—502.1(103) License categories and licenses required.

502.1(1) The following license categories are established:

- a.* Electrical contractor.
- b.* Residential electrical contractor.
- c.* Master electrician, class A.
- d.* Master electrician, class B.
- e.* Residential master electrician.
- f.* Journeyman electrician, class A.
- g.* Journeyman electrician, class B.
- h.* Residential electrician.
- i.* Apprentice electrician.
- j.* Special electrician.
- k.* Unclassified person.
- l.* Inactive master electrician.

502.1(2) A person who holds any class of license issued by the board, other than a class B license, a residential electrical contractor license, a residential master electrician license, or a residential electrician license, may perform the work authorized by that license anywhere within the state of Iowa. A person who holds a special electrician license may perform the work which is authorized by that license endorsement. A person who holds a class B license may perform the work authorized by that license except in a political subdivision which, by local ordinance, has, pursuant to Iowa Code section 103.29, subsection 4, restricted or barred such work by a person who holds a class B license. A person who holds a residential electrical contractor license, a residential master electrician license, or a residential electrician license may perform the work authorized by that license anywhere within the state of Iowa except within a political subdivision which has, by local ordinance, restricted the use of such a license.

502.1(3) A person who does not have a current valid license shall not perform work as an electrician or as an unclassified person. A person shall not perform work which requires licensing and which is not specifically authorized under the license issued.

EXCEPTION 1: A person who holds a current valid license issued by a political subdivision may perform work as an electrician or unclassified person within the corporate limits of the political subdivision which issued the license.

EXCEPTION 2: A person may work for up to 100 continuous days as an unclassified person prior to obtaining a license. Any documented time during which a person has worked as an unclassified person prior to January 1, 2008, or any time during which a person has worked as a licensed unclassified person shall be credited to any applicable experience requirement. Any time during which a person works as an unclassified person without a license on or after January 1, 2008, shall not be counted toward any such experience requirement, except that a person may receive credit for time worked as an unclassified person on or after January 1, 2008, without a license if the person has applied for a license.

EXCEPTION 3: Electrical installations in buildings, including residences or facilities which are being constructed as part of a course of instruction by an accredited educational institution, may be performed by a person who is not licensed. Such installations are subject to the requirements for permits and inspections pursuant to 661—Chapter 552.

[ARC 8396B, IAB 12/16/09, effective 2/1/10; ARC 9234B, IAB 11/17/10, effective 1/1/11]

661—502.2(103) License requirements.

502.2(1) An electrical contractor license may be issued to a person who submits to the board the required application with the applicable fee, who holds or employs a person who holds an active master electrician license, who is registered as a contractor with the labor services division of Iowa workforce

development, and who is not disqualified pursuant to rule 661—502.4(103). An electrical contractor license issued to a person who holds a class B master electrician license is subject to the same restriction of use as is the class B master electrician license.

502.2(2) A residential electrical contractor license may be issued to a person who is licensed as a class A master electrician, a class B master electrician, or a residential master electrician and who is registered with the state of Iowa as a contractor pursuant to Iowa Code chapter 91C.

502.2(3) A class A master electrician license may be issued to a person who submits to the board a completed application with the applicable fee, who is not disqualified from holding a license pursuant to rule 661—502.4(103), and who meets one of the following requirements:

a. Has completed one year of experience as a licensed journeyman electrician, and has passed a supervised written examination for master electrician approved by the board with a score of 75 or higher; or

b. As of December 31, 2007, held a current valid license as a master electrician issued by a political subdivision in Iowa, the issuance of which required passing a supervised written examination approved by the board, and one year of experience as a journeyman electrician; or

c. Holds a current class B master electrician license and has passed a supervised written examination for master electrician approved by the board with a score of 75 or higher.

502.2(4) A class B master electrician license may be issued to a person who submits to the board a completed application with the applicable fee; who is not disqualified from holding a license pursuant to rule 661—502.4(103); who presents credible evidence of having worked for a total of 16,000 hours of cumulative experience as a master electrician, of which at least 8,000 hours shall have been worked since January 1, 1998; and whose experience as a master electrician began on or before January 1, 1998.

502.2(5) A residential master electrician license may be issued to a person who submits to the board a completed application with the applicable fee, who is not disqualified from holding a license pursuant to rule 661—502.4(103), and who meets one of the following requirements:

a. Holds a current residential electrician or journeyman electrician license, has 2,000 hours of verified experience as a residential electrician or a journeyman electrician, and has passed a residential master electrician examination approved by the board; or

b. Holds a current special electrician license with a residential endorsement, has 4,000 hours of verified experience, and has passed a residential master electrician examination approved by the board.

502.2(6) A class A journeyman electrician license may be issued to a person who submits to the board a completed application with the applicable fee, who is not disqualified from holding a license pursuant to rule 661—502.4(103), and who meets one of the following requirements:

a. Has successfully completed a registered apprenticeship program, has passed a supervised written examination for journeyman electrician approved by the board with a score of 75 or higher, and has completed four years of experience as an apprentice electrician; or

b. As of December 31, 2007, held a current valid license as a journeyman electrician issued by a political subdivision in Iowa, the issuance of which required passing a supervised written examination approved by the board, and has completed a registered apprenticeship program and four years of experience as an apprentice electrician; or

c. Holds a current class B journeyman electrician license and has passed a supervised written examination for journeyman electrician approved by the board with a score of 75 or higher.

EXCEPTION: An electrician currently licensed in another state may satisfy the sponsorship requirements for testing for a journeyman class A license by providing evidence of all of the following:

1. Current licensure as a journeyman or master electrician from another state which required passing a test sponsored by that state.

2. Completion of 18 hours of continuing education units approved by the board.

3. Completion of 1,000 hours of work in Iowa as an unclassified person.

502.2(7) A class B journeyman electrician license may be issued to a person who submits to the board a completed application with the applicable fee; who is not disqualified from holding a license pursuant to rule 661—502.4(103); who presents credible evidence of having worked for a total of 16,000 hours of cumulative experience as a journeyman electrician or master electrician, of which at least 8,000

hours shall have been worked since January 1, 1998; and whose experience as a journeyman electrician or master electrician began on or before January 1, 1998.

502.2(8) A residential electrician license may be issued to a person who submits to the board a completed application with the applicable fee, who is not disqualified from holding a license pursuant to rule 661—502.4(103), and who meets one of the following requirements:

a. Holds a current residential special electrician license and has held that license for a minimum of one year and has passed a residential electrician examination approved by the board; or

b. Has completed 6,000 hours of experience as an apprentice electrician and has passed a residential electrician examination approved by the board. An applicant may take the examination required by this paragraph after completing 5,000 hours of experience as an apprentice electrician, although the license will not be issued until the applicant has completed 6,000 hours of such experience; or

c. Has completed 4,000 hours of experience working under the direct supervision of a residential master electrician, a residential electrician, a master electrician, or a journeyman electrician; has successfully completed a minimum of one academic year of an electrical trade school approved by the board; and has passed a residential electrician examination approved by the board; or

d. Has completed 8,000 hours of verified experience as a licensed unclassified person including at least 2,000 hours of verified work experience in residential wiring and has passed a residential electrician examination approved by the board; or

e. Has successfully completed a residential electrician apprenticeship program approved by the United States Department of Labor and passed a residential electrician examination approved by the board.

502.2(9) A special electrician license may be issued to a person who submits to the board a completed application with the applicable fee, who is not disqualified from holding a license pursuant to rule 661—502.4(103), and who meets the qualifications for any endorsement entered on the license. Each special electrician license shall carry one or more endorsements as specified in paragraphs “*a*” through “*d*.”

a. Endorsement 1, “Irrigation System Wiring,” shall be included on a special electrician license if the licensee requests it and has passed a supervised examination approved by the board or has completed two years, or 4,000 hours, of documented experience in the wiring of irrigation systems.

b. Endorsement 2, “Disconnecting and Reconnecting Existing Air Conditioning and Refrigeration Systems,” shall be included on a special electrician license if the licensee requests it and has passed a supervised examination approved by the board or has completed two years of documented experience in the disconnecting and reconnecting of existing air conditioning and refrigeration systems.

c. Endorsement 3, “Sign Installation,” shall be included on a special electrician license if the licensee requests that it be included. This endorsement does not authorize a licensee to connect power to a sign that has a voltage greater than 220V and an ampere rating greater than 20 amps. Initial installation or upgrading of the branch circuits supplying power to the sign shall be completed by a licensed master electrician or by a licensed journeyman electrician under the supervision of a master electrician.

d. Endorsement 4, “Residential Electrician,” shall be included on a special electrician license if the licensee requests it and has passed a supervised written examination approved by the board or has completed four years of documented experience performing residential electrical work. A political subdivision may, by enactment of an ordinance filed with the board prior to its effective date, require that a special electrician performing work authorized by this endorsement be supervised by a master electrician. Special electrician licenses with “residential electrician” endorsements shall not be issued after December 31, 2010. Renewals of special electrician licenses with “residential electrician” endorsements shall not be issued after December 31, 2013.

502.2(10) An apprentice electrician license may be issued to a person who submits a completed application to the board with the applicable fee, who is not disqualified pursuant to rule 661—502.4(103), and who is participating in an apprenticeship training program that is registered with the Bureau of Apprenticeship and Training of the United States Department of Labor. A person may hold an apprentice electrician license for no more than six years from the original date on which an apprentice electrician

license is granted, except that a person may apply to the board for an exception to this limitation based upon a documented hardship. “Documented hardship” includes, but is not limited to, an interruption in service as an apprentice electrician for active military duty or for an extended illness.

502.2(11) A license as an unclassified person may be issued to a person who submits a completed application to the board with the applicable fee, who is not disqualified pursuant to rule 661—502.4(103), and who is employed by a licensed electrical contractor. Any person who holds a current license issued by the board, including a special residential electrician license, but excluding other special electrician licenses, may work as an unclassified person without holding an unclassified person license.

502.2(12) In lieu of renewal of the active master electrician license, an inactive master electrician license may be issued to a holder of a master electrician license whose license is due for renewal and who requests placement in inactive status. A holder of an inactive license shall maintain all requirements which would apply for an active master electrician license, except for payment of the fee required for an active license, during the term of the inactive license. If the license holder fails to meet any such requirement during the term of the inactive license, the license holder shall not be entitled to reinstatement of an active license. If the license holder continues to meet all such requirements while holding an inactive license, the license holder may obtain an active master electrician license by surrendering the inactive master electrician license, filing an application for reinstatement, and paying the applicable license fee. The holder of an inactive license who seeks reinstatement of an active license shall not receive any refund of the fee paid for the inactive license. A person who holds an inactive license may not perform work which requires the person to be a holder of that license but may perform work authorized by any active license issued by the board which the person holds.

502.2(13) Retaking an examination. If passage of an examination is a requirement for issuance of a license:

a. An applicant who has taken the examination for a license twice and has failed the examination twice shall wait six months before taking the examination again and shall complete 12 hours of continuing education approved by the board on subjects related to the standards specified in 661—Chapter 504. After satisfying the requirements of this paragraph, the applicant may take the examination two additional times, or a maximum of four times.

b. An applicant who has satisfied the conditions of paragraph “*a*” and who has taken the examination two additional times, or a total of four times, and has failed the examination four times shall wait an additional six months and shall complete an additional 12 hours of continuing education approved by the board on subjects related to the standards specified in 661—Chapter 504 before taking the examination again. After satisfying the requirements of this paragraph, the applicant may take the examination two additional times, or a maximum of six times.

c. An applicant who has satisfied the conditions of paragraph “*b*” and who has taken the examination two additional times, or a total of six times, and has failed the examination six times shall not be permitted to take the examination an additional time unless approved to do so by the board. An applicant who wishes to take an examination after failing it six times shall wait six months and then may petition the board to allow the applicant to take the examination an additional time. The applicant may be required to appear personally before the board when the board is considering the petition.

[ARC 8396B, IAB 12/16/09, effective 2/1/10; ARC 9234B, IAB 11/17/10, effective 1/1/11; ARC 9626B, IAB 7/27/11, effective 9/1/11]

661—502.3(103) License terms and fees. The following table sets out the length of term of each license and the fee for the license.

License Type	Term	Fee
Electrical Contractor	3 years	\$375
Residential Electrical Contractor	3 years	\$375
Master Electrician, Class A	3 years	\$375
Master Electrician, Class B	3 years	\$375
Residential Master Electrician	3 years	\$375
Journeyman Electrician, Class A	3 years	\$75

License Type	Term	Fee
Journeyman Electrician, Class B	3 years	\$75
Residential Electrician	3 years	\$75
Special Electrician	3 years	\$75
Apprentice Electrician	1 year	\$20
Unclassified Person	1 year	\$20
Inactive Master Electrician	3 years	\$75

502.3(1) Fees are payable in advance with the application, by check or warrant to the Department of Public Safety. The memo area of the check should read “Electrician License Fees.”

502.3(2) Notice of renewal shall be provided to each licensee no less than 30 days prior to the expiration of the current license.

502.3(3) If a license is issued for less than the period of time specified in the table above, the fee shall be prorated according to the number of months for which the license is issued.

502.3(4) A licensee who is on active military deployment for 91 or more consecutive calendar days during the term of a license may have the license period tolled as follows. “Tolled” means that the expiration date of the license shall be delayed for the period of time during which the license term is tolled.

a. A licensee who is on active military deployment for 91 or more consecutive calendar days during a licensing period may have the license terms tolled for one year.

b. A licensee who is on active military deployment for 366 or more consecutive calendar days during a licensing period may have the license terms tolled for two years.

c. A licensee who is on active military deployment for 91 or more consecutive calendar days but fewer than 366 consecutive calendar days may petition the board to have the license tolled for two years upon a showing of a special hardship which would not be alleviated by tolling the license term for only one year.

d. A licensee who requests that the term of a license be tolled pursuant to this subrule shall provide a copy of military orders showing the beginning and ending dates of the deployment or deployments which are the basis for the request.

502.3(5) A licensee may obtain a replacement license for a license that has been lost. To order a replacement license, the licensee shall notify the board office in writing that the license has been lost and shall provide any information required by the board office, which may include, but is not limited to, the license number, the name of the licensee, and a description of the circumstances of the loss, if known. The fee for issuance of a replacement license shall be \$15.

EXCEPTION: If a licensee who is located in an area covered by a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6 which is currently in force or has been in force within the previous 90 days certifies to the board that the license was lost as a direct result of conditions which relate to the issuance of the disaster emergency proclamation, the fee for replacement of the license shall be waived.

[ARC 8396B, IAB 12/16/09, effective 2/1/10; ARC 9234B, IAB 11/17/10, effective 1/1/11]

661—502.4(103) Disqualifications for licensure. An application for a license shall be denied if any of the following apply:

502.4(1) The applicant fails to meet the requirements for the license for which the applicant has applied or the applicant fails to provide adequate documentation of any requirement.

502.4(2) The applicant has previously had a license revoked or suspended by the board, and the circumstances which formed the basis of the revocation or suspension have not been corrected. If a license was revoked or suspended and conditions were imposed for the restoration of the license, licensure shall be denied unless those conditions have been met.

502.4(3) The applicant has been denied, for cause, a license to work, or a license as an electrician has been revoked, for cause, in any other state or political subdivision and the applicant has not

subsequently received a license from the state or political subdivision which denied or revoked the license. An applicant who has been denied a license pursuant to this provision may apply to the board for a license and, upon a showing of evidence satisfactory to the board that the condition or conditions which led to the denial or revocation no longer apply, the board may grant the license to the applicant.

502.4(4) The applicant falsifies or fails to provide any information requested in connection with the application or falsifies any other information provided to the board in support of the application.

502.4(5) The applicant may be denied a license if the applicant has previously been convicted of a criminal offense involving, but not limited to, fraud, misrepresentation, arson or theft, or if the applicant is currently delinquent in paying employment taxes to the state of Iowa or the United States. If the denial is based upon conviction of a criminal offense, the board shall examine the specific circumstances of the offense and may grant the license if, in the judgment of the board, sufficient time has passed since the conviction and there is no further evidence of criminal conduct on the part of the applicant.

[ARC 8396B, IAB 12/16/09, effective 2/1/10]

661—502.5(103) License application. Any person seeking a license from the board shall submit a completed application to the board accompanied by the applicable fee payable by check, money order, or warrant to the Iowa Department of Public Safety. The memo area of the check should read “Electrician Licensing Fees.” The application shall be submitted on the form prescribed by the board, which may be obtained from the board office.

[ARC 8396B, IAB 12/16/09, effective 2/1/10]

661—502.6(103) Restriction of use of class B licenses by political subdivisions. A political subdivision may disallow or restrict the use of a class B license to perform electrical work within the geographic limits of that subdivision through adoption of a local ordinance. A copy of any such ordinance shall be filed with the board office prior to the effective date of the ordinance. If a class B license holder held a license issued or recognized by a political subdivision on December 31, 2007, that political subdivision may not restrict the license holder from performing work which would have been permitted under the terms of the license issued or recognized by the political subdivision.

EXCEPTION 1: An ordinance restricting or disallowing electrical work by holders of class B licenses shall not apply to work which is not subject to the issuance of permits by the political subdivision.

EXCEPTION 2: An ordinance restricting or disallowing electrical work by holders of class B licenses which was passed prior to January 1, 2008, shall be filed with the board as soon as practicable and, in any case, no later than April 1, 2008.

[ARC 8396B, IAB 12/16/09, effective 2/1/10]

661—502.7(103) Financial responsibility. Any holder of an electrical contractor license or any holder of an electrician license who is not employed by a licensed electrical contractor and who contracts to provide electrical work which requires a license issued pursuant to 661—Chapters 500 through 503 shall, at all times, maintain insurance coverage as provided in this rule.

502.7(1) The licensee shall maintain general and complete operations liability insurance in the amount of at least \$1 million for all work performed which requires licensing pursuant to 661—Chapters 500 through 503.

a. The carrier of any insurance coverage maintained by the licensee to meet this requirement shall notify the board 30 days prior to the effective date of cancellation or reduction of the coverage.

b. The licensee shall cease operation immediately if the insurance coverage required by this rule is no longer in force and other insurance coverage meeting the requirements of this rule is not in force. A licensee shall not initiate any electrical work which cannot reasonably be expected to be completed prior to the effective date of the cancellation of the insurance coverage required by this rule and of which the licensee has received notice, unless new insurance coverage meeting the requirements of this rule has been obtained and will be in force upon cancellation of the prior coverage.

502.7(2) Reserved.

[ARC 8396B, IAB 12/16/09, effective 2/1/10]

These rules are intended to implement 2007 Iowa Acts, chapter 197.

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CHAPTER 505
ELECTRICIAN AND ELECTRICAL CONTRACTOR
LICENSING PROGRAM—EDUCATION

661—505.1 to 505.100 Reserved.

DIVISION I
POSTSECONDARY ELECTRICAL EDUCATION PROGRAMS

661—505.101(103) Program approval.

505.101(1) Any institution that plans to offer a postsecondary electrical education program to prepare students to be licensed by the board shall submit an application to the board office on a form specified by the board. Only applications from institutions which are currently accredited by recognized regional or national educational accrediting organizations shall be approved.

505.101(2) For any postsecondary electrical education program for which approval is sought on or after September 1, 2011, approval by the board shall be obtained prior to student participation in the postsecondary electrical education program.

505.101(3) An application for initial approval of a postsecondary electrical education program shall be submitted to the board not less than 120 days prior to student participation in the program.

505.101(4) Approval of a postsecondary electrical education program is normally for five years, although approval may be withdrawn for cause prior to the expiration of the five-year period.

505.101(5) Applications for renewal of approval of postsecondary electrical education programs shall be submitted to the board at least 120 days prior to the expiration of the five-year approval period.

505.101(6) Information regarding approved postsecondary electrical education programs may be obtained by contacting the board office. A list of approved postsecondary electrical education programs shall be posted on the board's Web site.

[ARC 9626B, IAB 7/27/11, effective 9/1/11]

661—505.102(103) Standards for postsecondary electrical education programs. A postsecondary electrical education program shall not be approved unless it meets all of the following requirements:

505.102(1) The program shall include coverage of subject matter areas listed in the document "Required Subjects for Postsecondary Electrical Education Programs," approved and published by the board and available on request from the board office and from the board Web site. Included in addition to technical electrical subjects shall be at least 4 hours of instruction on the Iowa electrical statute, Iowa Code chapter 103, with a minimum of 1 hour on Iowa electrical licensing requirements.

505.102(2) Completion of the course of study shall require a minimum of 2,000 contact hours between the student and instructors, of which a minimum of 1,600 hours shall cover technical electrical subjects. Between 30 and 40 percent of the 2,000 hours shall be lecture hours, and the balance shall be laboratory or shop hours.

505.102(3) The program shall have an attendance policy which requires that a student attend at least 95 percent of each required program course to receive credit for the course.

505.102(4) Each instructor shall possess one of the following qualifications:

a. Hold a current license as a class A master electrician or class A journeyman electrician issued by the board; or

b. Hold a bachelor of science degree or equivalent or higher degree in electrical engineering and have completed 4,000 hours of experience performing electrical work; or

c. Hold an associate of applied science or equivalent or higher degree in electrical construction or maintenance or both and have completed 8,000 hours of experience performing electrical work.

505.102(5) For each course limited to a specialized technical or general education area, the instructor shall possess evidence of related specialized technical knowledge, including completion of training, certification, or accreditation in the specialized subject matter.

[ARC 9626B, IAB 7/27/11, effective 9/1/11]

661—505.103 to 505.200 Reserved.

DIVISION II
CONTINUING EDUCATION

661—505.201(103) Continuing education requirements. Each holder of a three-year license, other than a special electrician license, shall complete 18 hours of continuing education approved by the board between the time of issuance of the license and prior to issuance of a renewal license.

EXCEPTION: A holder of a license in a category which may be issued for a three-year period whose license is issued for less than a three-year period shall complete at least 6 hours of continuing education prior to renewal of the license for each year or portion of a year for which the license has been issued.
[ARC 9626B, IAB 7/27/11, effective 9/1/11]

661—505.202(103) Course approval.

505.202(1) Any person or institution that plans to offer continuing education courses to meet the requirements of rule 661—505.201(103) shall submit an application to the board office on a form specified by the board.

505.202(2) Approval by the board shall be obtained prior to a course's being offered to a licensee in order to meet the requirements of rule 661—505.201(103).

505.202(3) An application for initial approval of a continuing education course shall be submitted to the board not less than 45 days prior to student participation in the course.

505.202(4) Approval of a continuing education course is normally for the duration of the three-year licensing period during which approval is received, although approval may be withdrawn for cause prior to the expiration of the licensing period.

505.202(5) Applications for renewal of approval of continuing education courses shall be submitted to the board at least 45 days prior to the expiration of the three-year licensing period. For purposes of this subrule, "renewal" may include the updating of course material in a course previously approved for delivery by the same instructor.

505.202(6) Information regarding approved continuing education courses may be obtained by contacting the board office. A list of approved continuing education courses shall be posted on the board Web site.

[ARC 9626B, IAB 7/27/11, effective 9/1/11]

661—505.203(103) Requirements for continuing education programs. A continuing education program shall be approved by the board only if the following requirements are met:

505.203(1) The instructor or institution applying for approval of a continuing education course shall provide at least three letters from educational institutions or government agencies attesting to the instructor's knowledge of and qualifications to teach the subject matter of the course for which approval is sought.

505.203(2) Each instructor shall:

a. Verify course approval prior to delivery of the course.
b. Facilitate auditing of the course by any board member or member of the staff of the board. No board or staff member shall receive continuing education credit for an audited course.

c. Issue a certificate of completion to each student who completes the course.

d. Submit a class roster, indicating which students completed the course, to the board office within 30 days of completion of the course.

[ARC 9626B, IAB 7/27/11, effective 9/1/11]

These rules are intended to implement Iowa Code chapter 103.

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CHAPTER 551
ELECTRICAL INSPECTION PROGRAM—DEFINITIONS

661—551.1(103) Applicability. The definitions provided in this chapter apply to 661—Chapters 550 through 559, inclusive.

661—551.2(103) Definitions. The following definitions apply to the electrical inspection program:

“Apprentice electrician” means any person who, as such person's principal occupation, is engaged in learning and assisting in the installation, alteration, and repair of electrical wiring, apparatus, and equipment as an employee of a person licensed under this chapter, and who is licensed by the board and is progressing toward completion of an apprenticeship training program registered by the Bureau of Apprenticeship and Training of the United States Department of Labor. For purposes of this chapter, persons who are not engaged in the installation, alteration, or repair of electrical wiring, apparatus, and equipment, either inside or outside buildings, shall not be considered apprentice electricians.

“Board” means the electrical examining board created under Iowa Code Supplement section 103.2.

“Class A journeyman electrician” means a person having the necessary qualifications, training, experience, and technical knowledge to wire for or install electrical wiring, apparatus, and equipment and to supervise apprentice electricians and who is licensed by the board.

“Class A master electrician” means a person having the necessary qualifications, training, experience, and technical knowledge to properly plan, lay out, and supervise the installation of electrical wiring, apparatus, and equipment for light, heat, power, and other purposes and who is licensed by the board.

“Class B journeyman electrician” means a person having the necessary qualifications, training, experience, and technical knowledge to wire for or install electrical wiring, apparatus, and equipment and who meets and is subject to the requirements of Iowa Code Supplement section 103.12.

“Class B master electrician” means a person having the necessary qualifications, training, experience, and technical knowledge to properly plan, lay out, and supervise the installation of electrical wiring, apparatus, and equipment and who meets and is subject to the requirements of Iowa Code Supplement section 103.10.

“Commercial installation” means an installation intended for commerce, but does not include a residential installation.

“Electrical contractor” means a person affiliated with an electrical contracting firm or business who is licensed by the board as either a class A or class B master electrician and who is also registered with the state of Iowa as a contractor.

“Emergency installation” means an electrical installation necessary to restore power to a building or facility when existing equipment has been damaged due to a natural or man-made disaster or other weather-related cause. Emergency installations may be performed by persons properly licensed to perform the work, and may be performed prior to submission of a request for permit or request for inspection. A request for permit and request for inspection, if required by rule 661—552.1(103), shall be made as soon as practicable and, in any event, no more than 72 hours after the installation is completed.

“Farm” means land, buildings and structures used for agricultural purposes including but not limited to the storage, handling, and drying of grain and the care, feeding, and housing of livestock.

“Industrial installation” means an installation intended for use in the manufacture or processing of products involving systematic labor or habitual employment and includes installations in which agricultural or other products are habitually or customarily processed or stored for others, either by buying or reselling on a fee basis.

“Inspector” means a person certified as an electrical inspector upon such reasonable conditions as may be adopted by the board. The board may recognize more than one class of electrical inspectors.

“New electrical installation” means the installation of electrical wiring, apparatus, and equipment for light, heat, power, and other purposes.

“Public use building or facility” means any building or facility designated for public use, including all property owned and occupied or designated for use by the state of Iowa.

“Residential electrical work” means electrical work in a residence in which there are no more than four living units within the same building and includes work to connect and work within accessory structures, which are structures no greater than 3,000 square feet in floor area, not more than two stories in height, the use of which is incidental to the use of the dwelling unit or units, and located on the same lot as the dwelling unit or units.

“Routine maintenance” means the repair or replacement of existing electrical apparatus or equipment of the same size and type for which no changes in wiring are made. Routine maintenance by itself does not require an electrical inspection.

“Special electrician” means a person having the necessary qualifications, training, and experience in wiring or installing special classes of electrical wiring, apparatus, equipment, or installations which shall include irrigation system wiring, disconnecting and reconnecting existing air conditioning and refrigeration, and sign installation and who is licensed by the board.

“Unclassified person” means any person, other than an apprentice electrician or other person licensed under this chapter, who, as such person's principal occupation, is engaged in learning and assisting in the installation, alteration, and repair of electrical wiring, apparatus, and equipment as an employee of a person licensed under this chapter, and who is licensed by the board as an unclassified person. For purposes of this chapter, persons who are not engaged in the installation, alteration, or repair of electrical wiring, apparatus, and equipment, either inside or outside buildings, shall not be considered unclassified persons.

“Volunteer emergency service provider” means a volunteer fire fighter as defined in Iowa Code section 85.61, a volunteer emergency rescue technician as defined in Iowa Code section 147A.1, or a reserve peace officer as defined in Iowa Code section 85.61.

[ARC 8396B, IAB 12/16/09, effective 2/1/10; ARC 9626B, IAB 7/27/11, effective 9/1/11]

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